16-525

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 97.

THE UNITED STATES, PLAINTIFF IN ERROR,

VS.

J. M. STONE AND W. C. McALEXANDER.

No. 98.

J. M. STONE AND W. C. McALEXANDER, PLAINTIFFS IN ERROR,

VS.

THE UNITED STATES.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF MISSISSIPPI.

FILED OCTOBER 18, 1879.

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1 United States district court, northern district of Mississippi.

Proceedings had in the district court of the United States, for the northern district of Mississippi, begun and held for its December term, A. D. 1872, at the court-house in Oxford, Miss., on, to wit, the day of , 187 , and days subsequent thereto, in the following cause:

UNITED STATES OF AMERICA vs. B. B. EMORY ET AL. } Suit on internal revenue collector's bond for third district of Mississippi.

Writ of error sued out by both parties.

Messrs. Featherston and Harris, of Holly Springs, Mississippi, attorneys for B. B. Emory et al.

2 *Declaration.*

District court of the United States for the northern district of Mississippi. December term, 1872.

UNITED STATES
vs.
BENJAMIN B. EMORY, WILLIAM M. COMPTON, William McAlexander, Sanford W. Whiting, John M. Stone.

NORTHERN DISTRICT OF MISSISSIPPI, *ss:*

The United States of America, who sues for the use of the Treasury Department, complains by attorney of Benjamin B. Emory, William M. Compton, William McAlexander, Sanford W. Whiting, and John M. Stone, who are citizens of the State of Mississippi, residing in the northern district thereof, of a plea of debt that they render unto them the sum of fifty-seven thousand four hundred and ninety-seven dollars and eighty-four cents ($57,497.84), lawful money of the United States, with interest thereon from June 30th, A. D. 1871, which to them they owe and from them unjustly detain. For that whereas, heretofore, to wit: on the twenty-ninth day of March, A. D. 1870, at, to wit, in the district aforesaid, the said defendants by the name of Benjamin B. Emory, William M. Compton, William McAlexander, Sanford W. Whiting, John M. Stone, together with Albert B. Slonaker, one of the sureties, made and executed their certain writing obligatory, sealed with their seals (a duly certified copy of which is herewith produced and shown to the court),
3 the date whereof is the date aforesaid, and thereby acknowledged themselves held and firmly bound unto the United States of America in the just and full sum of fifty thousand dollars ($50,000.00), for the payment whereof well and truly to be made they bound themselves, jointly and severally, their joint and several heirs, executors, and administrators, which said writing obligatory was and is subject to certain conditions hereunder written, whereby after reciting that the said Benjamin B. Emory was collector of internal revenue for the third district of Mississippi, it was provided that if the said Benjamin B. Emory should truly and faithfully execute and discharge all the duties of the said office according to law, and shall justly and faithfully account for and pay over to the United States in compliance with the

order *said* regulations of the Secretary of the Treasury, all public moneys which may come into his hands or possession, and if each and every deputy collector appointed by said collector shall truly and faithfully execute and discharge all the duties of such deputy collector according to law, then the above obligation to be void and of no effect, otherwise it shall abide and remain in full force and virtue.

BENJAMIN B. EMORY. [SEAL.]
WILLIAM M. COMPTON. [SEAL.]
WILLIAM C. McALEXANDER. [SEAL.]
SANFORD V. W. WHITING. [SEAL.]
JOHN M. STONE. [SEAL.]
ALBERT B. SLONAKER. [SEAL.]

Sealed and delivered by Whiting, and Stone & Slonaker, in the presence of—

Dalbert Stearns.
James M. McKee.

Sealed and delivered by Compton and McAlexander, in the presence of—

Jas. T. Fant.
Liberty C. Abbott.

[1 dollar stamp cancelled.]

4 Yet the said plaintiff says that the said Benjamin B. Emory did not truly and faithfully as collector of internal revenue as aforesaid execute and discharge the duties of the said office according to the said conditions of said writing obligatory, or according to the tenor and effect, and true intent and meaning thereof, but that he, the said Benjamin B. Emory, late collector of internal revenue as aforesaid, did not, althoug' often requested so to do, account for, or pay over to the said plaintiffs according to law, and in compliance with the orders and regulations of the Secretary of the Treasury a large sum of money, to wit, the sum of fifty-seven thousand four hundred and ninety-seven dollars and eighty-four cents ($57,497.84), which said sum of money had then and there, to wit, on the 30th day of June, A. D. 1871, in the district aforesaid, come to the possession of the said Benjamin B. Emory, as collector of internal revenue, and by virtue of his said office, which said sum of money was and is moneys belonging to the United States of America, and which came to the hand of the said Benjamin B. Emory, collector of internal revenue as aforesaid, for and on the account of the United States, and while he was so acting as collector of internal revenue. By virtue whereof and by reason of the premises, the said plaintiffs aver that said writing obligatory has become forfeited, and an action has accrued to the plaintiffs to have and demand of the said defendants the sum of fifty thousand dollars in the said writing obligatory mentioned.

5 Yet the said defendants nor either of them, though often requested so to do, have not paid said sum of money nor any part thereof, but so to do, they and each of them have hitherto wholly neylected and refused, and still do wholly neglect and refuse, to the damage of the plaintiffs fifty thousand dollars. Therefore they bring suit, &c., &c.

G. WILEY WELLS,
U. S. Dist. Atty, N. Dist. Miss.

The exhibits referred to in the foregoing declaration are in the words and figures following, to wit:

Letter from Treasury Dep't.

UNITED STATES OF AMERICA:

TREASURY DEPARTMENT,
January 5th, 1872.

Pursuant to the act of Congress of the 22d February, 1849, I hereby certify that the annexed is a true copy of an original official bond of Benjamin B. Emory, late collector of internal revenue for the 3d district of Mississippi, dated March 29th, 1870, on file in this department.

In witness whereof I have hereunto set my hand and caused the seal of the Treasury Department to be affixed on the day and year first above written.

[SEAL.] J. F. HARTLEY,
Acting Secretary of the Treasury.

Bond.

Know all men by these presents that we, Benjamin B. Emory, principal, and William M. Compton, William C. McAlexander, Sanford V. W. Whiting, John M. Stone, and Albert B. Sloanaker, sure-
6 ties, are held and firmly bound unto the United States of America in the full and just sum of fifty thousand dollars, money of of the United States; to which payment well and truly to be made, we bind ourselves jointly and severally, our joint and *and* several heirs, executors, and administrators, firmly by these presents. Sealed with our seals and dated this 29th day of March, in the year one thousand eight hundred and seventy.

The condition of the foregoing obligation is such that whereas the President of the United States hath, pursuant to law, appointed the said Benjamin B. Emory collector of internal revenue for the third district of Mississippi, under an act entitled "An act to provide internal revenue to support the government, to pay interest on the public debt, and for other purposes," and, in due form of law, caused to be issued to him as such a commission, bearing date the twenty-ninth day of December, anno Domini one thousand eight hundred and sixty-nine. Now, therefore, if the said Benjamin B. Emory shall truly and faithfully execute and discharge all the duties of the said office according to law, and shall justly and faithfully account for and pay over to the United States, in compliance with the orders and regulations of the Secretary of the Treasury, all public moneys which may come into his hands or possession, and if each and every deputy collector appointed by said collector shall truly and faithfully execute and discharge all the duties of such deputy collector according to law, then the above obligation to be void and of no effect. Otherwise it shall abide and remain in full force and virtue.

7 BENJAMIN B. EMORY. [SEAL.]
WILLIAM M. COMPTON. [SEAL.]
WILLIAM C. McALEXANDER. [SEAL.]
SANFORD V. W. WHITING. [SEAL.]
JOHN M. STONE. [SEAL.]
ALBERT B. SLOANAKER. [SEAL.]

Sealed and delivered by Whiting and Stone and Sloanaker, in the presence of—

DALBETT STEARNS.
JAMES M. MCKEE.

Sealed and delivered by Compton & McAlexander, in the presence of—

JAS. T. FANT.
LIBERTY C. ABBOTT.

[$1 stamp.]

I, Benjamin B. Emory, having been appointed to the office of collector of internal revenue for the 3rd district of the State of Mississippi, do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought nor accepted nor attempted to exercise the functions of any office whatever under any authority, or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And I do further swear that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this
8 obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter; so help me God.

BENJAMIN B. EMORY.

Sworn to and subscribed this the 2nd day of May, A. D. 1870, before me. Witness my hand and seal.

CHAS. DRAKE, [SEAL.]
Justice of the Peace, and Ex-officio Notary Public
of the County of Marshall, State of Mississippi.

I, D. C. Calkins, do certify that Charles Drake who administered the above oath was, at the time of doing so, duly authorized to administer the same; and that full faith and credit are due to his official attestations.

In testimony whereof I have hereto set my hand and affixed the seal of the probate court of Marshall County, Miss., which is a court of record, this the 2d day of May, A. D. 1870.

[SEAL OF COURT.] D. C. CALKINS, *Clerk*,
By B. M. MARSHALL, *D. C.*

[5-ct. stamp.]

UNITED STATES OF AMERICA,
Northern District of Mississippi, ss:

I, Edwin Hill, United States district attorney for the northern district of Mississippi, hereby certify that the sureties within named, and who have signed the foregoing bond, are responsible and suffi-
9 cient to insure the payment of the entire penalty named therein.

Witness my hand and seal this twenty-seventh day of April, 1870.

E. HILL,
U. S. Dist. Att'y, Northern District of Mississippi.

TREASURY DEPARTMENT,
SOLICITOR'S OFFICE, *May 6th*, 1870.

I have examined the within bond and find it to be executed in proper form; and I approve the sureties thereto as sufficient.

E. C. BANFIELD,
Solicitor of the Treasury.

Affidavit of surety.

UNITED STATES OF AMERICA,
State of Mississippi, County of Marshall, ss:

I, William M. Compton, of the town of Holly Springs, county of Marshal' and State of Mississippi, depose and say, that I am one of the sureties, together with William C. McAlexander and others, on the official bond of Benjamin B. Emory, collector of internal revenue, for the third district of the State of Mississippi, dated March 29th, 1870, that I am a householder in said State of Mississippi, and that I am worth the sum of ten thousand dollars over and above all exemptions from attachment or execution under the laws of said State of Mississippi, and after the payment of all just debts, and legal liabilities incurred for any cause whatever, either as principal or surety.

WILLIAM M. COMPTON.

10 Sworn and subscribed before me this 29th day of March, A. D. 1870.

[SEAL OF COURT.] D. C. CALKINS,
Clerk of the Probate Court of Marshal County, Miss.,
By B. M. MARSHALL, *D. C.*

[3 2c. stamps, M'ch 29th, '70.]

Affidavit of surety.

UNITED STATES OF AMERICA,
State of Mississippi, County of Marshall, ss:

I, William C. McAlexander, of the town of Holly Springs, county of Marshall, and State of Mississippi, depose and say that I am one of the sureties, together with William M. Compton and others, on the official bond of Benjamin B. Emory, collector of internal revenue for the third district of the State of Mississippi, dated March 29th, 1870; that I am a householder in said State of Mississippi, and that I am worth the sum of ten thousand dollars over and above all exemptions from attachment or execution under the laws of said State of Mississippi, and after the payment of all just debts and legal liabilities incurred for any cause whatever, either as principal or surety.

WILLIAM C. McALEXANDER.

Sworn and subscribed before me this 29th day of March, A. D. 1870.

[SEAL OF COURT.] D. C. CALKINS,
Clerk of the Probate Court Court *of Marshall County, Miss.*,
By B. M. MARSHALL, *D. C.*

[3 2c. stamps, M'ch 29th. '70.]

11 *Affidavit of surety.*

UNITED STATES OF AMERICA,
State of Mississippi, County of Hinds, ss:

I, Sanford V. W. Whiting, of the town of Oxford, county of La Fayette, and State of Mississippi, depose and say that I am one of the sureties, together with William M. Compton & others, on the official bond of Benjamin B. Emory, collector of internal revenue for the third district of the State of Mississippi, dated March 29th, 1870; that I am a householder in said State of Mississippi, & that I am worth the sum of ten thousand dollars over and above all exemptions from attachment, or execution under the laws of said State of Mississippi, and after the payment of all just debts, and lelgal liabilities incurred for any cause whatever, either as principal or surety.

S. V. W. WHITING.

[3 2c. stamps, April 26th, 1870.]

Sworn and subscribed to before me this 26th day of April, A. D. 1870.

JAMES M. McKEE,
U. S. Comm'r, So. Dist. of Mississippi.

Affidavit of surety.

UNITED STATES OF AMERICA,
State of Mississippi, County of Hinds, ss:

I, John M. Stone, of the town of Iuka, county of Tishomingo, and State of Mississippi, depose and say, that I am one of the sureties, together with William M. Compton, and others, on the official 12 bonds of Benjamin B. Emory, collector of internal revenue for the third district of the State of Mississippi, dated March 29th, 1870; that I am a householder, in said State of Mississippi, and that I am worth the sum of ten thousand dollars, over and above all exemptions from attachment or execution under the laws of said State of Mississippi, and after the payment of all just debts and legal liabilities incurred for any cause whatever, either as principal or surety.

JOHN M. STONE.

[3 2c. stamps, April 26th, 1871.]

Sworn and subscribed before me this 26th day of April, A. D. 1870.

JAS. M. McKEE,
U. S. Com's'n'r, Southern District of Mississippi.

Affidavit of surety.

UNITED STATES OF AMERICA,
State of Mississippi, County of Hinds, ss:

I, Alber B. Sloanaker, of the town of Jackson, county of Hinds, and State of Mississippi, depose and say that I am one of the sureties together with William M. Campton and others, on the official bond of Benjamin B. Emory, collector of internal revenue for the third district of the State of Mississippi, dated March 29th, 1870; that I am a householder in said State of Mississippi, and that I am worth the sum of ten thousand dollars, over and above all exemptions from attachment or execution under the laws of said State of Mississippi, and after 13 the payment of all just debts and legal liabilities incurred for any cause whatever, either as principal or surety.

ALBERT B. SLOANAKER.

[3 2 c. stamps, April 26th, 1870.]

Sworn and subscribed before me this 26th day of April, A. D. 1870.

JAS. M. McKEE,
U. S. Com's'n'r, So. Dist. of Mississippi.

In the circuit court of the United States for the southern district of Mississippi.

I, Geo. T. Swann, clerk of said court, do hereby certify that James M. McKee was, on the 16th day of July, A. D. 1868, duly appointed a United States commissioner, in and for the southern district of Mississippi, pursuant to the several acts of Congress in such case made and provided, and that he still holds said office and discharges the duties thereof.

Given under my hand and the seal of said court affixed, at Jackson, in said district, on this the 26th day of April, A. D. 1870.

[SEAL.] GEO. T. SWANN, *Cl'k.*

Filed October 23d, 1872. G. R. Hill, clerk.

And afterwards, to wit, on the 23d day of October, a summons was issued in said cause, which is in the words and figures following, to wit:

Summons.

The President of the United States to the marshal of the northern district of Mississippi, greeting:

14 We command you, without delay, to summon Benjamin B. Emory, William M. Compton (of Jackson, Miss.), Wm. McAlexander (of Marshall Co., Miss.), Sanford W. V. Whiting (unknown), John M. Stone (of Alcorn Co., Miss.), citizens of the State of Mississippi, residing in the northern district thereof, that they be and appear before the district court of the United States, to be held at the town of Oxford, for the said northern district of Mississippi, on the first Monday of December next, to answer the complaint of the United States, and that the' do file their plea or defence with the clerk of said court on or before the meeting of the same, or judgment will be given against them by default, and have then there this writ.

Witness the honorable A. Hill, judge of the district court of the United States for the northern district of Mississippi, at Oxford, the first Monday of June, A. D. 1872, and 96th year of the Independence of the United States.

Issued the 23d day of Oct., 1872.

[SEAL OF COURT.] G. R. HILL, *Clerk.*

This action is brought to recover on an internal revenue collector's bond for the sum of $57,497.84.

G. R. HILL, *Clerk.*

And upon the foregoing summons, the marshal made his return in the words and figure' following, to-wit:

Executed the within writ, Oct. 25th, 1872, on the within-named defendant, John M. Stone, by delivering to him in person a copy of this writ.

J. H. PIERCE,
U. S. Marshal.

15 Executed the within writ upon the within-named, W. M. Compton, Oct. 28th, 1872, personally, by reading to him the contents of writ, he waiving right of copy of same.

J. H. PIERCE,
U. S. Marshal.

Executed the within writ November 20th, 1872, on the within-named defendant, Wm. McAlexander, by delivering to him in person a copy of this writ.

J. H. PIERCE,
U. S. Marshal.

The within-named B. B. Emory, not found in my district, after diligent enquiry. I am informed that said Emory is dead, Dec. 2d, 1872.

J. H. PIERCE,
U. S. M.

Affidavit for continuance.

THE UNITED STATES
vs.
B. B. EMORY ET AL.

Personally appeared before me, H. Mask, a commissioner of the United States for the northern district of Mississippi, John M. Stone, who, being duly sworn, states that he is sued in the above-entitled case as one of the sureties of B. B. Emory, on his official bond as former collector of internal revenue for the third district of Mississippi, in the district court of the United States for the northern district of Mississippi, that the declaration in said cause was filed on the 23d day of October, 1872, and this affiant was served with process but a short time before the meeting of said district court on the first Monday in December, 1872. Affiant states that said B. B. Emory is sued as a defaulting revenue collector, for the sum of fifty thousand dollars, & affiant is sued in the same action as one of the sureties. Affiant states 16 that he has learned since he was sued, & within the last few days, from one of the deputies of said Emory, & from his bookkeeper while in said office, that said Emory is entitled to credits for moneys paid by him, while acting as said internal revenue collector, to the proper department at Washington City, to a very large amount, perhaps to the entire amount for which he is sued, and if not to the full sum for which he is sued, to a sum approximating it. Affiant states that he has not had time, since he was sued in this action, to get up the said credits, from the books of said Emory, and forward them to Washington City for allowance or disallowance by the proper department. Affiant states that he cannot use said credits until they have been passed upon by the proper authorities at Washington City. Affiant states that he cannot go to trial at this term of the court without the credits hereinbefore stated, and he cannot have them for the reasons hereinbefore stated; wherefore he asks a continuance of this case, & for four months' time within which to file his pleas. This application is not made for delay, but that justice may be done.

JOHN M. STONE.

Sworn and subscribed before me on this 6th day of December, 1872.

H. MASK,
U. S. Com'r for N. D. of Miss.

Filed Dec. 9th, 1872. G. R. Hill, clerk.

And afterwards, to wit, at the December term, 1872, of said court, on the 9th day of December, the same being a day of said term, an order was made in said cause in the words and figures following, to wit:

17 *Order of court allowing continuance.*

UNITED STATES }
vs. }
B. B. EMORY ET AL. }

Comes the district attorney for the United States and suggests the death of B. B. Emory, one of the defendants in this cause, and it is ordered by the court be revived in the name of the administrator of said decedent, when made known, and for reasons stated to the court it is ordered Wm. M. Compton, Wm. McAlexander, & Jno. M. Stone, sureties on the bond of said B. B. Emory, dec'd, be allowed four months to plead. And it is further ordered in this cause that an alias summons do issue for W. S. V. Whiting to the next term of this court.

Affidavit for continuance.

THE UNITED STATES OF AMERICA:

District court of the United States for the northern district of Mississippi.

THE UNITED STATES }
vs. }
B. B. EMORY ET AL. }

This day personally appeared before me, John C. Atkinson, U. S. commissioner for the northern district of Mississippi, aforesaid, J. M. Stone, one of the defendants in the above-stated case, who, being duly sworn, deposes and says that he will not be ready for trial, and cannot go safely to trial, at the June term of the district court of the United States to be held at Oxford, for the district aforesaid, on the first Monday in June, 1873, for the following reasons: Affiant is sued, with B. B. Emory and others, on the official bond of said Emory, given by him as former collector of internal revenue for this the third district of Mississippi. Affiant and his codefendants, with the exception of said Emory, are sued as the securities of said
18 Emory on his bond for a large amount, to wit, some fifty-seven or eight thousand dollars, which it is alleged that said Emory collected in his official capacity aforesaid, and failed to pay over or account for to the Government of the United States. Affiant would state that this suit was brought but a few days before the last term of this court. Affiant would further state that immediately after he was sued in this case, during the last term of this court, he applied to E. P. Hatch, who was then in the office of the internal revenue collector for this district as the principal bookkeeper for said officer, and who has since been appointed collector for the district, & is now acting as such to examine the books of said office running through the official term of said Emory, & ascertain what mistakes had been made against said Emory, to what credits he was entitled which had not been allowed by the government, and to make out a true statement showing how said Emory's accounts stand with the U. S. Government, and what offsets exist in his favor against the claim sued on in this action. Affiant would further state that said Hatch entered immediately upon the discharge of this duty, and has pursued it diligently from that time to the present, but that said Hatch, owing to the

interference of his official duties, has been unable to go through with the books and complete the task. Affiant would further state, however, that said Hatch has progressed far enough with this work to ascertain that there are large sums for which said Emory and his securities are sued in this action, for which it is justly entitled to
19 credits under the law. Affiant would further state that no one is so capable of making the examination of said books as said Hatch, who has been in the office for years, and is entirely familiar with them. Affiant would further state that he has urged said Hatch to complete the said examination of said books and to make his report as soon as possible, and he believes said Hatch has worked diligently at all times when not actually engaged in the discharge of indispensable official duties. Affiant would further state that he is informed by said Hatch that it will take him at least two months longer to complete the examination of said books and make his report as aforesaid. Affiant files herewith the affidavit of said Hatch, showing what he has done in the premises, and in support of this his application for continuance. Affiant would further state that he cannot go to trial without the greatest injustice to himself and his codefendants until after the said examination shall have been completed by the said Hatch, and that he, affiant, has used every effort to be ready for trial at this term of the court, and that this application is not made for delay, but that justice may be done.

J. M. STONE.

Sworn to and subscribed before me this 26th day of May, A. D. 1873.

JNO. C. ATKINSON,
United States Comm'r for N. D. of Miss.

Filed June 2, 1873. G. R. Hill, clerk.

20 *Affidavit of E. P. Hatch.*

THE UNITED STATES OF AMERICA:

District court of the United States for the northern district of Mississippi, sitting at Oxford, June term, 1873.

THE UNITED STATES
vs.
B. B. EMORY ET AL.

Personally appeared before me, John C. Atkinson, a United States commissioner for the northern district of Mississippi aforesaid, E. P. Hatch, who, being duly sworn deposes, and says, that early in December last he was applied to by J. M. Stone, one of the defendants in the above-stated case, to examine the books of the internal revenue office for the 3rd district of Mississippi to ascertain whether B. B. Emory, the former collector, was a defaulter to the general government, and, if so, to what amount. That he was requested by said Stone to ascertain how the accounts of said Emory stood with the general government, whether he had collected money as collector for which he had not accounted, & to what credits he was entitled, and to make a true report of the condition of his accounts with the U. S. Government. Affiant states that he at once entered upon the investigation as requested by said Stone, and has pursued it without delay except when he was necessarily employed in the discharge of his official duties. Affiant

states that he has not had time to complete the examination of said books, & to make his report, & that it will require him at least two months longer to complete the same. Affiant states that he works constantly at the same when he is not engaged in the discharge
21 of his official duties as collector of this district. Affiant states that he is now the collector of this the 3rd internal revenue district of Mississippi and has been since the 11th of March, 1873; that he was the deputy collector in said office for twenty months before he was appointed collector; that no one now living is so capable as himself of making the examination & report desired by said J. M. Stone. Affiant states that he does believe that said Stone and his codefendants could not go safely to trial until said examination shall have been completed by him, and his report made and accepted or rejected by the authorities at Washington City acting for the general government.

E. P. HATCH.

Subscribed and sworn to before me this 27th day of May, 1873.

JNO. C. ATKINSON,
United States Comm'r for N. D. of Miss.

Filed June 2d, 1873. G. R. Hill, clerk.

And afterwards, to wit, at the June term A. D. 1873, on the 14th day of June, the same being a day of said term, an order was made in said cause in the words and figures following, to wit:

Order of court granting continuance.

UNITED STATES
vs.
B. B. EMORY ET AL.

Upon application of defendants, it is ordered by the court that this cause be continued.

22 *Application for continuance.*

THE UNITED STATES
vs.
B. B. EMORY ET AL.

Personally appeared before me, George R. Hill, clerk of the district court of the United States for the northern district of Mississippi, W. S. Featherston, one of the attorneys for the defendants in the above-stated case, who, being sworn, deposes and says that the defendants cannot go safely to trial at the present term of this court in this case for the following reasons: 1st, the investigation of the books and accounts of the late collector, B. B. Emory, has not been completed by the present collector, E. P. Hatch, and the amount of credits to which said Emory is entitled on the account sued on in this case has not been ascertained and forwarded to the proper department & allowed or rejected, for the want of time. That said Hatch has not finished his investigations for the want of time, but has worked diligently at it when not engaged in the discharge of his official duties, as affiant is informed & believes. Affiant refers to the affidavit made at the last term of this court for the nature and character of the claim or offsets now in the hands of said Hatch, the present collector of this district. Affiant would further state that an application has been made by said defendants to the Congress of the United States for relief in this case, with well-founded hopes of success; and that the defendants believe that this case will be disposed of before the next term of this court, as he is informed by them; that this application is not made for delay, but that justice may be done.

Affiant would further state that he is informed and believes that there are now pending before the department at Washington, 23 claims for credits on the account sued on in this case to the amount of three or four thousand dollars, which have not been allowed or rejected.

W. S. FEATHERSTON.

Subscribed and sworn to before me this 3d Dec., 1873.

G. R. HILL, *Clerk.*

Filed Dec. 6th, 1873. G. R. Hill, clerk.

And afterwards, to wit, at the December term, 1873, of said court on the 6th day of December, the same being a day of said term, an order was made in said cause in the words and figures following, to wit:

Order of court granting continuance.

UNITED STATES
vs.
B. B. EMORY ET AL.

It is ordered by the court that this cause be and the same is hereby continued.

And afterwards, to wit, at the June term, 1874, of said court, on the 9th day of June, the same being a day of said term, an order was made in said cause in the words and figures following, to wit:

Order of court granting continuance.

UNITED STATES
vs.
B. B. EMORY ET AL.

It is ordered by the court that this cause be and the same is hereby continued.

Application for continuance.

District court of the United States for the northern district of Mississippi, December term, 1874.

THE UNITED STATES
vs.
B. B. EMORY ET AL.

24 Personally appeared before me, George R. Hill, clerk of the district court aforesaid, J. M. Stone, one of the defendants in the above-stated case, who, being duly sworn, deposes and says:

That he cannot go safely to trial in the above-stated case for the following reasons: 1st. The examination of the books of the former collector of this district, B. B. Emory, has not been completed by the present collector, Hatch, in order to ascertain to what credits the said Emory & his securities sued on his official bond in this case are entitled. Affiant employed said Hatch months ago to examine said books, and report in an account the amount of credits to which the defendants in this case are entitled, and has paid him three hundred and fifty dollars for doing the work, but it is unfinished & incomplete. 2nd. Only a part of the account so made out has been furnished affiant, and that has been done so recently that affiant has not had time to send it to Washington City and have it allowed or disallowed in order to introduce as an offset in this court. 3rd. The books and papers of said Emory have been in possession of said Hatch as his successor in office, and affiant has had no access to them except through said Hatch, and could only have them examined by said Hatch & the account made up by him. Affiant asks that this cause may be continued in order to give him time to have said examination completed this account or offset made up & acted on by the department at Washington City. Affiant asks this continuance, not for delay, but that justice may be done.

J. M. STONE.

25 Subscribed and sworn to before me this 15' Dec., 1874.

G. R. HILL, *Clerk.*

Filed Dec. 15th, 1874. G. R. Hill, clerk.

And afterwards, to wit, at the December term, 1874, of said court, on the 15th day of December, the same being a day of said term, an order was made in said cause in the words and figures following, to wit:

Order.

UNITED STATES
vs.
B. B. EMORY ET AL.

For sufficient cause shown to the court, it is ordered that this cause be continued until the next term of this court. And it is further ordered that E. P. Hatch, collector, turn over to the sureties, or to J. M. Stone, one of them, the accounts claimed as credits upon payment of a reasonable compensation therefor, and that so much of said accounts as have not been made out by said Hatch or his successor, that a competent accountant be permitted to examine said accounts and make out such account of credits as may be claimed by said sureties, to be presented to the Commissioner of Internal Revenue for his action.

A certified copy of the foregoing order was served upon E. P. Hatch. Upon which said copy the marshal made his return, in the words & figures following, to wit:

Executed the within order of court on the within-named E. P. Hatch, collector, by reading the same to him in his hearing Dec. 15th, 1879.

J. H. PIERCE,
U. S. Marshal.

26 *Motion.*

THE UNITED STATES
vs.
B. B. EMORY ET AL.

The defendants in this case move the court for a rule on the district attorney, who prosecutes on behalf of the Government, requiring him to file with the declaration in this case a complete transcript, containing an itemized account between said B. B. Emory, as late collector of the 3rd internal revenue district of Mississippi, & said government, the transcript now filed with said declaration from the books of the department at Washington City, and the papers on file in the case, is imperfect and incomplete, and contains no itemized account. Said defendants demand a complete transcript from the books of the department showing all action taken by the government on the accounts of said Emory, as collector as aforesaid, and certified copies of all papers on file connected with the accounts and acts of said Emory. Said defendants demand copies of the receipts of said Emory as collector for the assessment rolls & certified copies of his monthly reports, showing with what he charged himself, and what credits he claimed, &c., which are not now on file. Said defendants demand a return to them of an itemized account sent forward by them to the department to be allowed as a credit on the account sued on in this case for the sum of about twenty thousand dollars, about six months ago, together with the action of the department in allowing or rejecting the same, so that they may be able to use said account on the trial of this case.

June 15th, 1875.

FEATHERSTON, HARRIS & WATSON,
Att'ys for Defendants.

27 W. S. FEATHERSTON,
Atttorneys for Def'ts.

Subscribed and sworn to before me this 15th June, 1875.

G. R. HILL, *Clerk.*

Filed June 15th, 1875. G. R. Hill, clerk.

And afterwards, to wit, at the June term, 1875, of said, court on the 15th day of June, the same being a day of said term, an order was made in said cause in the words and figures following, to wit:

Order.

UNITED STATES
vs.
B. B. EMORY ET AL.

This day came on to be heard and determined the motion entered in this cause for a rule on the district attorney to require him to file in this cause an itemized statement of the account between the United States and said defendant, and after being considered by the court, it is ordered that said motion be sustained, and that the plaintiff do file said account, and that this cause be continued until the next term of this court.

And afterwards, to wit, at the December term, 1875, of said court, on the 8th day of December, the same being a day of said term, an order was made in said cause in the words & figures following, to wit:

Order.

UNITED STATES
vs.
B. B. EMORY ET AL.

It is ordered by the court that this cause be continued, as upon the affidavit of defendants.

28 And afterwards, to wit, at the June term, 1876, of said court, on the 6th day of June, the same being a day of said term, an order was made in said cause in the words and figures following, to wit:

Order.

UNITED STATES
vs.
B. B. EMORY ET AL.

Upon motion of defendants it is ordered by the court that this case be continued to await compromise.

Pleas and notice.

THE UNITED STATES OF AMERICA:

District court of the United States for the northern district of Mississippi, June term, 1876.

THE UNITED STATES, PLAINTIFF,
vs.
B. B. EMORY, WILLIAM M. COMPTON, William McAlexander, Sanford W. Whiting, & John M. Stone, defendants.

And the said defendants, William M. Compton, William McAlexander, & John M. Stone, by attorney, come and defend the wrong and injury, where, &c., and say that they do not owe the said sum of money in the plaintiff's declaration above demanded, or any part thereof, in manner and form as the said plaintiff has above thereof complained against them, & of this they put themselves upon the country, &c.

FEATHERSTON, HARRIS AND WATSON,
Att'ys for Compton, Stone, & McAlexander.

Notice of matter to be given in evidence under the above plea:

1st. Defendants will show under the above plea that nothing is due from them or from B. B. Emory, late internal revenue collector, to the United States, and that the United States are really indebted to said Emory.

2nd. That no monthly reports of said Emory's defalcations, if any existed, were made to the department at Washington City, as the law required, whereby his sureties were released.

29 3rd. That no writ of seizure was issued to the marshal, and the property of said Emory was not seized and sold in satisfaction of his alle*d*ged indebtedness to the government arising out of his alle*d*ged defalcation, as the law required, whereby the sureties on his bond were released.

4th. That said Emory, as such collector, was not suspended by the government after he became a defaulter, if he ever became one, when the law required his alle*d*ged defalcation to be reported every month, and upon the report of his first defalcation required his suspension by the department, and the failure to make such suspension released his sureties from all liability, except such as arose during the month of his first alle*d*ged defalcation.

5th. The alleged liability for which this suit is brought arose, if it arose at all, under a bond given by said Emory, as such collector, in October, 1869, and not under the bond on which this suit was brought, and which is signed by these defendants.

6th. That the bond on which this suit is brought was not taken and approved by the officer appointed by law to take and approve the same, whereby the same is not binding on these defendants.

FEATHERSTON, HARRIS AND WATSON,
Att'ys for Def'ts Stone, Compton, and McAlexander.

And for a further plea in this behalf the said defendants, John M. Stone, William M. Compton, and William McAlexander, by attorney, come and defend the wrong and injury, when, &c., & say, "actio non," because they say that they, the above-named defendants, on the first day of October, 1872, and before the institution of this suit, fully
30 paid off and discharged the said sum of money in the said plaintiff's declaration mentioned & demanded, both the principal and interest, to the said plaintiff; and this they are ready to verify. Wherefore they pray judgment, &c.

FEATHERSTON, HARRIS & WATSON,
Atto's for Def'ts Stone, Compton, & McAlexander.

Filed July 8, 1876. G. R. Hill, clerk.

Plea of non est factum.

THE UNITED STATES OF AMERICA:

District court of the United States for the northern district of Mississippi, sitting at Oxford, Mississippi, December term, 1876.

THE UNITED STATES OF AMERICA
vs.
B. B. EMORY, LATE COLLECTOR OF INTERNAL revenue, in the 3rd district of said State, & John M. Stone, William M. Compton, & W. C. McAlexander, sureties on his official bond as such collector.

And the said defendants, John M. Stone, William M. Compton, & W. C. McAlexander, by att'y, come and defend the wrong and injury when, &c., and say, "actio non." Because *because* they say that suit is brought on the supposed official bond of the said B. B. Emory made and executed by him as collector of internal revenue in the 3rd district

of Mississippi, on the 29th day of March, 1870, and that they, these defendants, are the sureties of the said Emory on his said supposed official bond, and that they signed the same as sureties, and in no other capacity whatever; and said defendants aver that the amount of said supposed bond given as aforesaid was not prescribed by the
31 Commissioner of Internal Revenue under the direction of the Secretary of the Treasury, as by law required; and the said defendants further aver that the amount of said supposed bond was fixed and presented by the said Commissioner without consultation with or any direction from the said Secretary of the Treasury; and said defendants aver that the amount of the bond required of said Emory, as collector of the district aforesaid, has never been fixed and prescribed by the Secretary of the Treasury, nor has he ever approved, fixed, or prescribed the amount of the supposed bond sued on in this action; and the said defendants further aver that the said supposed bond declared on in this action is null and void, and that the same is not obligatory upon them, and is not their act and deed. Wherefore they pray judgment, &c.

FEATHERSTON, HARRIS & WATSON,
Atto's for the above Def'ts.

UNITED STATES OF AMERICA,
Northern District of Mississippi:

Personally appeared before me, G. R. Hill, clerk of the district court of the United States for the northern district of Mississippi, W. M. Compton, who being duly sworn says that the facts set forth in the foregoing pleas are true as to himself.

WM. M. COMPTON.

Sworn to and subscribed before me the 17th day of Dec., 1876.
G. R. HILL, *Clerk.*

Filed Dec. 11th, 1876. G. R. Hill, clerk.

32 *Affidavit of J. M. Stone.*

And afterwards, to wit, on the 9th day of June, 1879, the following affidavit was filed to the foregoing plea, to wit:

UNITED STATES OF AMERICA,
Northern District of Mississippi:

Personally appeared before me, G. R. Hill, clerk of the district court of the United States for the northern district of Mississippi, J. M. Stone, who being duly sworn says that the facts set forth in the foregoing pleas are true as therein stated, to the best of his knowledge and information and belief.

J. M. STONE.

Subscribed and sworn to before me this the 9th day of June, 1879.
G. R. HILL, *Clerk.*

And afterwards, to wit, at the December term, 1876, of said court, on the 12th day of December, 1876, the same being a day of said term, an order was made in said cause in the words & figures following, to wit:

Order.

UNITED STATES
vs.
B. B. EMORY ET AL.

It is ordered by the court that this case be continued, and leave is hereby granted to defendants to file additional pleas at the present term, and the district attorney is allowed until next term to demur or reply.

Plea.

THE UNITED STATES OF AMERICA:

District court of the United States for the northern district of Mississippi, December term, 1876.

THE UNITED STATES
vs.
33 B. B. EMORY, WILLIAM M. COMPTON, William C. McAlexander, John M. Stone, and Sanford W. Whiting, defendants.

And the said defendants John M. Stone, William M. Compton, & William C. McAlexander, by attorney, come and defend the wrong and injury, when, &c., & say that the said B. B. Emory, as collector of internal revenue in the third district of Mississippi, did not as such collector, on the 30th day of June, 1871, or at any other time, withhold from or refuse to pay over to the United States the sum of $57,497.84, or any other or different sum, which came into his hands as such collector, and which belonged to the said United States, as alledged in the declaration of said plaintiff. And of this they put themselves upon the country, &c.

FEATHERSTON, HARRIS & WATSON,
Atto's for Stone, Compton, & McAlexander.

Filed Dec. 18th, 1876. G. R. Hill, clerk.

Exceptions.

District court of the United States for the northern district of Mississippi, December term, 1876.

THE UNITED STATES
vs.
B. B. EMORY ET AL.

John M. Stone, William M. Compton, & William C. McAlexander, alledged sureties of said Emory, on his official bond as late collector of internal revenue in the 3rd district of Mississippi, and defendants in this suit with others, file the following exceptions to the transcripts from the department, filed by the plaintiff & intended *and in-*
34 *tended* to be offered as evidence in the case on the trial:

1st. The certificates are not such as the law requires.

2nd. The transcripts are incomplete, and do not set out the entries on the books of the department, and are not transcripts from the books, but summaries of what the officers suppose the books contain.

3rd. The reports & receipts of Emory, as collector for assessments & other papers connected with the settlement of his accounts by the department are not set out in said transcripts.

4th. Emory's monthly and quarterly reports are not set out in said transcripts.

5th. Emory's receipts for assessments are not set out in said transcripts.

6th. Facts are set out in said transcript which did not come before the department, which were not in the course of its business, and of which its transcript is no evidence.

7th. Said transcripts are partial, imperfect, and do not present the whole record statement in regard to said Emory's accounts as late collector as aforesaid.

FEATHERSTON, HARRISON & WATSON,
Atto's for Stone et al.

Filed July 5th, 1877. G. R. Hill, clerk.

And afterwards, to wit, at the June term, 1877, of said court, on the 7th day of July, the same being a day of said term, an order was made in said cause in the words and figures following, to wit:

Order.

UNITED STATES
vs.
B. B. EMORY ET AL.

Upon application of the defendants, for want of evidence of the rejection of credits, it is ordered by the court this case be, and the same is hereby, continued.

35 And afterwards, to wit, at the December term, 1877, of said court, on the 1st day of January, 1878, the same being a day of said term, an order was made in said cause in the words and figures following, to wit:

Order.

UNITED STATES
vs.
B. B. EMORY ET AL.

Upon application of defendants, it is ordered that this case be continued until the next term of this court.

And afterwards, to wit, at the June term, 1878, of said court, on the 12th day of June, the same being a day of said term, an order was made in said cause in the words and figures following, to wit:

Order.

UNITED STATES
vs.
B. B. EMORY ET AL.

Upon application of the defendants it is ordered by the court that this cause be continued until the next term of this court.

And afterwards, to wit, at the December term, 1878, of said court, on the 23’ day of January, 1879, the same being a day of said term, an order was made in said cause in the words and figures following, to wit:

Order.

UNITED STATES
vs.
B. B. EMORY ET AL.

This day came the district attorney on the part of the United States, into open court, and the death of one of the defendants, W. M. Compton, being suggested, it is ordered by the court that this cause be revived against the personal representatives of said decedent when known, and upon application of defendants this cause is continued the next term of this court, and the case set for trial on the 2’ Monday of said term.

36 And afterwards, to wit, at the June term, 1879, of said court, on the 9th day of June, the same being a day of said term, an order was made in said cause in the words and figures following, to wit:

Order.

UNITED STATES
vs.
B. B. EMORY ET AL.

Came the district attorney on the part of the United States and dismissed this suit as to B. B. Emory, Dr. W. M. Compton, & S. W. Whiting, defendants herein.

And afterwards, to wit, at the June term, 1879, of said court, on the 9th day of June, the same being a day of said term, an order was made in said cause in the words and figures following, to wit:

Order on demurrer.

UNITED STATES
vs.
B. B. EMORY ET AL.

Came the parties by their attorneys, and came on to be heard the demurrer herein to the plea of non est factum, and the same being duly considered by the court, it is ordered by the court that said demurrer be and the same is hereby sustained.

Motion.

UNITED STATES OF AMERICA,
Northern district of Mississippi:

In the circuit court of said district, June term, 1878.

THE UNITED STATES, PLAINTIFF,
vs.
B. B. EMORY ET AL. DEFENDANTS.

And now comes G. C. Chandler, U. S. attorney for said district, and moves the court to strike out the plea filed by the defendants the 8th of June, 1876, and the notice of the matter they propose to offer in evidence under said plea, and he assigns the following causes, to wit:

1st. Because said plea presents no issue, and sets up no defence to the action.

37 2nd. Because said notice sets up no defense or partial defense.

3rd. Because it is impertinent.

4th. Because no laches of the government constitute any defense or partial defense to this action.

5th. Because the defense that they have paid the debt sued for can be made under the plea of not guilty elsewhere pleaded.

G. C. CHANDLER,
U. S. Attorney.

Filed June 9th, 1879. G. R. Hill, clerk.

And afterwards, to wit, at the June term, 1879, of said court, on the 9th day of June, the same being a day of said term, an order was made in said cause in the words and figures following, to wit:

Order.

UNITED STATES
vs.
B. B. EMORY ET AL.

Came the parties by their attorneys, and came on to be heard the motion this day made to strike out the plea and notice filed in this court on the 8th day of June, 1876, and the court having heard the arguments of attorneys pro & con, & having duly considered the same, it is ordered by the court that said motion be sustained, and that said plea & notice be stricken out.

And afterwards, to wit, at the June term, 1879, of said court, on the 10th day of June, the same being a day of said term, a judgment was had in said cause in the words and figures following, to wit:

38

Judgment.

UNITED STATES
vs.
JNO. M. STONE AND WM. C. MCALEXANDER.

This day came the district attorney on the part of the United States, and came also the defendants, by attorney, and thereupon came a jury of good and lawful men, to wit, jury No. 1 being T. F. Lynn and eleven others, who, being duly elected, empannelled, charged, and sworn, well and truly to try the issue joined between the parties, upon their oath say they find for the plaintiff, and assess their damages at the sum of ten thousand & three dollars and fifty-two cents.

It is therefore considered by the court that the plaintiff have and recover of the said defendants the sum of ten thousand and three dollars and fifty-two cents damages, so assessed by the jury aforesaid, together with their costs by them and about their suit in this behalf expended, for which let execution issue.

The following are transcripts from the books of the Treasury Department at Washington, and of papers on file, which are referred to in the bills of exception taken and filed in this cause.

39 MEMORANDUM.—This receipted form 51 shows the "amount collected by Emory on the lists receipted for by his predecessors, and is the evidence upon which the 3' item of debit show, in report # 6393 is based as follows:" Amount collected on lists receipted for by predecessor, $2,465.29; a note on the report explains that of this amount $359.25 were on list receipted for by W. W. Willis, and the balance, $2,106.04 on those of W. C. V. Hicks. Collections on Willis' lists were for the month of May, 1869, and of Hicks for months of June, July, and August. The aggregate "amounts collected" shown on this form 51 for the months above named equal the amount of debit in the report.

F. C. C.

S. A. J. W. B. M.

UNITED STATES OF AMERICA,
TREASURY DEPARTMENT, *March* 18, 1872.

Pursuant to the act of Congress of 22nd February, 1849, I hereby certify that the annexed are true copies of the original papers on file in this department.

In witness whereof I have hereunto set my hand and caused the seal of the Treasury Department to be affixed, on the day and year first above written.

[SEAL.]

GEO. S. BOUTWELL,
Secretary of the Treasury.

40 51 A.—*Collector's statement of tax account for the month of November*, 1869, *in the 3rd district of Mississippi.*

(To be made on the 1st and returned to this office on or before the 10th day of each month.)

Names of lists.	Amount of taxes unaccounted for on previous statement.	Amount collected.	Amount abated.	Amount allowed by the Fifth Auditor, transferred, &c. Am't uncollected.	Amount accounted for. Total.
May, 1869	....	10 00	....	....	10 00
June, "	5,175 85	118 50	....	5,057 35	118 50
July, "	2,033 60	78 00	....	1,955 60	78 00
August, "	2,592 28	531 84	....	2,060 44	531 84
September, "	4,338 63	2,567 89	119 37	*a*1,651 37	2,567 89
October, "	6,276 55	2,728 49	....	3,548 06	2,728 49
November, "	4,303 90	85 68	....	4,218 22	85 68
		6,120 40	....	....	6,120 40
Collected by W. C. V. Hicks on lists, November, 1869	....	52 51	Am't collected by W. C. V. Hicks, Nov. list.		52 51
Amount collected by B. B. Emory	....	$6,067 89	....	....	6,067 89
Received of W. C. V. Hicks cash, November 3d, 1869	....	....	....	....	537 70
a. Collected by Hicks					6,605 59
Amount carried forward	24,601 44	6,120 40	....	18,491 04	6,605 59

Each list must be reported separately; 51 A is intended to be used in those cases only where 51 B will not hold all the lists still open.

B. B. EMORY, *Collector.*

41 51 A.—*Collector's statement of tax account for the month of December,* 1869, *in the 3rd district of Mississippi.*

(To be made out on the 1st and returned to this office on or before the 10th day of each month.)

Names of lists.	Amount of tax accounted for on previous statement.	Amount collected.	Amount abated.	Amount allowed by the Fifth Auditor, transferred, &c. Amount uncollected.	Amount unaccounted for.
June, 1869	5, 057 35	439 98	....	4, 617 37	439 98
July, "	1, 955 60	72 25	....	1, 883 35	72 25
August, "	2, 060 44	509 80	....	1, 550 64	509 80
September, "	1, 651 37	1, 207 48	....	443 89	1, 207 48
October, "	3, 548 06	1, 320 97	....	2, 227 09	1, 320 97
November, "	4, 218 22	75 19	....	4, 143 03	75 19
December, "	4, 245 70	117 14	....	4, 128 56	117 14
Amount carried forward	22, 736 74	3, 742 81	....	18, 993 93	3, 742 81

Each list must be reported separately; 51 A is intended to be used in those cases only where 51 B will not hold all the lists still open.

B. B. EMORY, *Collector.*

42 51 A.—*Collector's statement of tax account for the month of February,* 1870, *in the 3rd district of Mississippi.*

(To be made out on the 1st and returned to this office on or before the 10th day of each month.)

Names of lists.	Amount of taxes unaccounted for on previous statement.	Amount collected.	Amount abated.	Amount uncollected.	Total.
May, 1869	....	310 00	....	....	310 00
June, "	4, 617 37	206 75	....	4, 410 62	206 75
July, "	1, 883 35	25 75	....	1, 857 60	25 75
August, "	1, 550 34	50 17	....	1, 500 17	50 17
September, "	413 31	105 63	....	307 68	105 63
October, "	1, 229 74	355 41	....	874 33	355 41
November, "	3, 884 82	877 80	....	3, 007 02	877 80
December, "	3, 878 49	2, 452 03	....	1, 426 46	2, 452 03
January, 1870	6, 691 59	....	....	6, 691 59	
					4, 383 54
As per form § 76	893 30	893 30	....	....	893 30
" " " § 90	746 25	738 00	....	8 25	738 00
Amount carried forward	25, 788 56	6, 014 84	....	20, 083 72	6, 014 84

Each list must be reported separately; 51 A is intended to be used in those cases only where 51 B will not hold all the lists still open.

G. WILEY WELLS,
Acting Collector.

43 51 A.—*Collector's statement of tax account for the month of March*, 1870, *in the 3rd district of Mississippi.*

(To be made out on the 1st and returned to this office on the 10th day of each month.)

Names of lists.	Amount of taxes accounted for on previous statement.	Amount collected.	Amount abated.	Amount uncollected.	Total.
June, 1869	4,410 62	20 00		4,390 62	20
July, "	1,857 60			1,857 60	
August, "	1,500 17	10 50		1,490 17	10 00
September, "	307 68	18 34		289 34	18 34
October, "	874 33	146 83		727 50	146 83
November, "	3,007 02	211 41		2,795 61	211 41
December, "	1,426 46	232 70		1,193 76	232 70
January, 1870	6,691 59	2,572 89		4,118 70	2,572 89
February, "	5,813 88	1,747 62		4,066 26	1,747 62
					4,959 79
As per form # 76					
" " " # 90	144 75	132 50		12 25	132 50
" " " # 103					
Amount carried forward	26,034 10	5,092 29		20,941 81	5,092 29

Each list must be reported separately; 51 A is intended to be used in those cases only where 51 B will not hold all the lists still open.

G. WILEY WELLS,
Acting Collector.

44 *Collector's statement of tax account for the month of April*, 1870, *in the 3rd district of Mississippi.*

(To be made out on the 1st and returned to this office on or before the 10th day of each month.)

Names of lists.	A mounted of taxes unaccounted for on previous statement.	Amount collected.	Amount abated.	Am't uncollected.	Total.
June, 1869	4,390 62	10 00		4,380 62	10 00
July, "	1,857 60			1,857 60	
August, "	1,490 17			1,490 17	
September, "	289 34	1 50	10 00	277 84	1 50
October, "	727 50	4 24		723 26	4 24
November, "	2,795 61			2,795 61	
December, "	1,193 76	257 48		936 28	257 48
January, 1870	4,118 70	1,186 89		2,931 81	1,186 89
February, "	4,066 26	1,131 67		2,934 59	1,131 67
March, "	3,875 02	453 11		3,421 91	453 11
					3,044 89
As per form # 76					
" " " # 90	17 25			17 25	
" " " # 103					
Amount carried forward	24,821 83	3,044 89	10 00	21,766 94	3,044 89

Each list must be reported separately; 51 A is intended to be used in those cases only where 51 B will not hold all the lists still open.

G. WILEY WELLS,
Acting Collector.

45 51 A.—*Collector's statement of tax account for the month of May*, 1870, *in the* 3rd *district of Mississippi.*

(To be made out on the 1st and returned to this office on or before the 10th day of each month.)

Names of lists.	Amount of taxes unaccounted for on previous statement.	Amount collected.	Amount abated.	Amount uncollected.	Total.
May, 1869		39 25			39 25
June, "	4,380 62			4,380 62	
July, "	1,857 60	11 00		1,846 60	11 00
August, "	1,490 17	22		1,468 17	22
September, "	277 84			277 84	
October, "	723 26	14 33		708 93	14 33
November, "	2,795 61	9 99		2,785 62	9 99
December, "	936 28	26 00		910 28	26 00
January, 1870	2,934 81	338 59		2,593 22	338 59
February, "	2,934 59	724 92		2,209 67	724 92
March, "	3,421 91	748 65		2,673 26	748 65
Annual, "	33,626 43	657 01		32,969 42	657 01
April, "	10,029 90	69 41		9,960 49	69 41
					2,661 15
As per form 76	11 44	11 44			11 44
" " " 90	22 75			22 75	
" " " 103					
Amount carried forward	65,440 21	2,672 59		62,806 87	2,672 59

Each list must be reported separately; 51 A is intended to be used in those cases only where 51 B will not hold all the lists still open.

G. WILEY WELLS,
Acting Collector.

Filed January 4th, 1876. G. R. Hill, clerk.

46 TREASURY DEPARTMENT,
REGISTER'S OFFICE, *July 10th*, 1872.

Pursuant to the act of March 3d, 1797, entitled "An act to provide more effectually for the settlement of accounts between the United States and receivers of public moneys," I, John Allison, Register of the Treasury Department, do hereby certify that the annexed copy of the report of the Fifth Auditor of the Treasury, numbered 6972, admitted and certified by the Comptroller, upon the account of Benjamin B. Emory, late collector of internal revenue for the third collection district of Mississippi, under his official bond, dated October 11th, 1869, and of the statement of differences thereon, are a transcript from the books and proceedings of the Treasury, and that the copies of the accounts current of said collector hereto attached are true copies of the original on file in this office.

JOHN ALLISON,
Register.

S. A. D.

Be it remembered that John Allison, esq., who certified the annexed transcript, is now, and was at the time of doing so, Register of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof I, Geo. S. Boutwell, Secretary of the Treasury of the United States, have hereunto subscribed my name and

47 caused to be affixed the seal of this department, at the city of Washington, this tenth day of July, in the year of our Lord 1872.

[SEAL.] GEO. S. BOUTWELL,
Secretary of the Treasury.

48 *Special 1st bond for suit.*

No. 6972.]
TREASURY DEPARTMENT,
FIFTH AUDITOR'S OFFICE, *April 26th*, 1872.

I hereby certify that I have examined and adjusted an account between the United States and Benj. B. Emory, late collector for the 3rd district of Mississippi, from November 4th, 1869, to March 28th, 1870, and find him chargeable as follows:

Under bond dated October 11th, 1869:

To am't of assessor's lists receipted for, as per certificate of Commissioner and receipts in Comptroller's office, Form 23½	31, 676 92	
“ am't collected on lists receipted for by predecessors in office, W. W. Willis, 320.00; W. C. V. Hicks, 2,063.04	2, 383 04	
“ “ of tobacco and cigar stamps received per Form 76	9, 115 64	
“ “ “ stamps for distilled spirits received per Form 90	6, 350 00	
“ “ “ cash received from W. C. V. Hicks, predecessor	537 60	
		50, 063 20

I also find him entitled to credit as follows:

By am't of cash deposited as per certificates herewith	19, 216 50	
“ “ collected by predecessor, W. C. V. Hicks, on lists receipted for by coll'r	312 88	
“ “ of taxes on lists transferred to himself, as coll'r, under 2nd bond	13, 050 17	
“ “ “ stamps transferred to himself, as coll'r, under 2nd bond, viz: Tobacco, $8,098.88; spirits, $5,357.25	13, 456 13	

Warrants covering into Treasury amount of cash deposited, viz:

No. 304, 4th q'r 1869	$4, 802 12	On file with report § 5117.
“ 724, “ “ “	984 70	
“ 285, 1st “ 1870	9, 510 00	
“ 696, “ “ “	4, 046 28	
	19, 343 10	
Deduct int. rev. stamps	126 60	
	19, 216 50	

Balance due the United States transferred to himself as his own successor	4, 027 52	
		50, 063 20

As appears from accounts and vouchers herewith transmitted for the decision of the Comptroller thereon.

J. H. ELA, *Auditor.*

To the FIRST COMPTROLLER OF THE TREASURY.

$4,027.52.]
TREASURY DEPARTMENT,
COMPTROLLER'S OFFICE, *May 28th*, 1872.

I admit and certify that a balance of four thousand and twenty-seven and $\frac{52}{100}$ is due to the United States, as stated in the above report.

WM. HEMPHILL JONES,
Acting Comptroller.

To the REGISTER OF THE TREASURY.

49 *Statement of differences.*

Balance per account to March 31st, 1870, due to the United States	26, 742 53	
“ found per adjustment due to “ “ “	4, 027 52	
Difference to collector's credit		22, 715 01
Explained thus:		
1. Am't credited herein as taxes transferred to himself as coll'r under 2nd bond		13, 050 17
2. “ “ “ “ stamps “ “ “ “ “ “ “ “		13, 456 13
3. “ “ per account, as collections made on lists of predecessors	6, 312 96	
“ charged per adjustment, “ “ “ “ “ “ “	2, 383 04	
		3, 929 92
4. “ credited per adjustment as collections by predecessor on lists of Coll'r Emory	312 88	
“ claimed per collector's acc't as collections by predecessor on lists of Coll'r Emory	62 51	
		260 37
		30, 696 59

Per contra:

A. Am't charged per adjustment as taxes receipted for on Form 23½	$31, 676 92		
" credited per collector's acc't " " " " " " "	27, 338 29		
		4, 338 63	

NOTE.—The difference $4,338.63 is am't of Sept., 1869, list, which the collector omitted to credit in his account.

B. Am't claimed per coll'r's acc't as cash deposited	22, 321 85		
" credited per adjustment " " "	19, 216 50		
		3, 105 35	
" charged " " as cash received from predecessor		537 60	
			7, 981 58
Difference as above stated			22, 715 01

FORMS CHARGED HEREIN.

Form 23½.

September, 1869	$4, 338 63
October "	6, 276 55
November, "	4, 303 90
December "	4, 245 70
January, 1870	6, 698 26
February, "	5, 813 88
	$31, 676 92

Form 76.

Received from predecessor Willis	$7, 359 24
" " " Hicks	1, 606 40
" " department	150 00
	9, 115 64

Form 90.

Received from predecessor Willis	500 00
" " " Hicks	5, 850 00
	6, 350 00

FIFTH AUDITOR'S OFFICE, *April 26th*, 1872.

Examined and stated by—

R. B. DETRICK.

COMPTROLLER'S OFFICE, *May 28th*, 1872.

Examined and reported by—

S. C. CLARKE.

50 *Collector's quarterly account No. 1. Quarter ending December 31st, 1869. The United States (office of internaly revenue) in account with B. B. Emory, collector 3rd district, Mississippi.*

DR.

To amount of cash deposited	5, 249 12	5, 249 12
" " taxes collected by predecessor	52 51	52 51
" balance due the United States, viz:		
Cash	4, 561 70	
Tobacco and cigar stamps	8, 965 64	
Spirit stamps	6, 350 00	
Uncollected taxes	6, 370 00	26, 247 34
		31, 548 97

CR.

By am't of taxes collected on lists receipted for by predecessor in office	5, 535 74	
		5, 535 74
" " " " receipted for on Form 23½, viz:		
List for month of October, 1869	6, 276 55	
" " " " November "	4, 303 90	
		10, 580 45
" am't of tobacco and cigar stamps and beer stamps received as per following *following* forms:		
Month November, 1869.—Form 76, $8,965.64	8, 965 64	
		8, 965 64
Received from N. D. Stanwood and W. C, V. Hicks.		
" am't of stamps for distilled spirits received and guager's fees collected in excess as per following forms:		
Month November, 1869.—Form 90, $6,350.00	6, 350 00	
		6, 350 00
" balance due collector, being taxes collected in advance		117 14
		31, 548 97

Dated at Corinth, Mississippi, this 12th day of April, 1870.

B. B. EMORY,
Collector 3rd District, Mississippi.

Collector's quarterly account No. 2. Quarter ending March 31st, 1870. The United States (office of internal revenue) in account with B. B. Emory, coll'r 3rd dist., Mississippi.

Dr.

To balance as per last acccount rendered, No. 1		117
" amount of cash deposited	17,072 73	
		17,072
" balance due the United States, viz:		
Cash	385 07	
Tobacco and cigar stamps	8,098 88	
Spirit stamps	5,356 75	
Uncollected taxes	12,901 83	
		26,742 53
		43,932 40

Cr.

By balance as per last account rendered, No. 1		26,247 34
" am't of taxes collected on lists receipted for by predecessor in office	777 22	
" " " " receipted for on Form 23½, viz:		
List for month of December, 1869	4,245 70	
" " January, 1870	6,698 26	
" " February, "	5,813 88	
		16,757 84
" am't of tobacco and cigar stamps and beer stamps received as per following forms:		
Month March, 1870.—Form 76, $150.00	150 00	
		150 00
		43,932 40

Dated at Corinth, Mississippi, this 12th day of April, 1870.

B. B. EMORY,
Collector 3rd District, Mississippi.

Filed January 4, 1876. G. R. Hill, clerk.

51

TREASURY DEPARTMENT,
REGISTER'S OFFICE, *July* 22, 1872.

Pursuant to the act of March 3rd, 1797, entitled "An act to provide more effectually for the settlement of accounts between the United States and receivers of public moneys," I, John Allison, Register of the Treasury Department, do hereby certify that the annexed copies of the reports of the Fifth Auditor of the Treasury, numbered 6973, 5743, 6393, & 7024, as admitted and certified by the Comptroller, upon the accounts of B. B. Emory, late collector of internal revenue for the third collection district of Mississippi, under his official bond, dated March 29th, 1870, and of the statements of differences thereon, are a transcript from the books and proceedings of the Treasury, and that the copies of the accounts current of said collector, and of his reports on Form 23½ and 76, hereto attached, are true copies of the original on file in this office.

JOHN ALLISON, *Register.*

Be it remembered that John Allison, esq., who certified the annexed transcript, is now, and was at the time of doing so, Register of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof I, George S. Boutwell, Secretary of the Treasury of the United States, have hereunto subscribed my name and caused to be affixed the seal of this department, at the city of Washington, this twenty-second day of July, in the year of our Lord 1872.

[SEAL.]

GEO. S. BOUTWELL,
Secretary of the Treasury.

52 Supplemental to report #6972.

No. 6973.]

TREASURY DEPARTMENT,
FIFTH AUDITOR'S OFFICE, *April 26th*, 1872.

I hereby certify that I have examined and adjusted an account between the United States and Benjamin B. Emory, late collector for the third district of Mississippi, from March 29th, 1870, to June 30th, 1870, and find him chargeable as follows (under bond dated March 29th, 1870):

To balance transferred from last adjustment. Report No. 6972	$4,027 52	
" amount of assessor's list, receipted for, as per certificate of Commissioner and receipts in Comptroller's office. Form 23½	58,433 11	
" amount of stamps for distilled spirits received, per Form 90, June, 1870	200 00	
" amount of taxes on lists received from himself as coll'r under 1st bond	13,050 17	
" amount of tobacco stamps " " " " " " " "	8,098 88	
" amount of spirit stamps " " " " " " " "	5,357 25	
" amount collected by predecessor, W. C. V. Hicks, on lists receipted for by Collector Emory prior to March 29th, 1870, now credited to acc't under 1st bond	312 88	
		$89,479 81

I also find him entitled to credits as follows:

By amount of taxes abated by Comm'r's orders Nos. 8709	10 00	
" amount of cash deposited during period from March 29th, 1870, to June 30th, 1870	25,935 32	
" amount collected prior to March 29th, 1870, on lists receipted for by predecessor now charged to account under first bond	2,383 04	
" amount of cash received from predecessor, W. C. V. Hicks, now charged to account under 1st bond	537 60	
By balance due the United States	60,613 85	
		$89,479 81

As appears from accounts and vouchers herewith transmitted for the decision of the Comptroller thereon.

J. H. ELA, *Auditor.*

To the FIRST COMPTROLLER OF THE TREASURY.

$60,613.85.]

TREASURY DEPARTMENT,
COMPTROLLER'S OFFICE, *May 28th*, 1872.

I admit and certify that a balance of sixty thousand six hundred and thirteen and $\frac{85}{100}$ dollars is due to the United States, as stated in the above report.

WM. HEMPHILL JONES,
Acting Comptroller.

To the REGISTER OF THE TREASURY.

53 *Statement of differences.*

Balance per account due the United States		63,169 12	
" found, per adjustment, due to " "		60,613 85	
Difference to collector's credit			2,555 27

Explained thus:
Cr.

(1)st. Outstanding difference per last report, #6972		22,715 01	
(2.) Amount credited herein as cash deposited	$25,935 32		
Amount claimed per collector's ℀ as cash deposited	22,292 27		
		3,643 05	

NOTE.—As the coll'rs schedule of deposits is not on file, there is no data at hand by which to explain this difference.

(3.) Am't credited herein as taxes abated, not claimed per acc't		10 00	
(4.) Am't credited herein as collections on predecessor's lists, now charged to ℀ under 1st bond		2,383 04	
(5.) Am't credited herein as cash received from predecessor to ℀ under 1st bond		537 60	
(6.) Am't credited per coll'r's acc't as collections on lists of predecessor, not charged herein		85 75	
			29,374 45

Per contra:
Dr.

(A.) Amount charged herein as taxes received from himself, as collector, under first bond	13,050 17	
(B.) Am't charged herein as tobacco stamps received from himself, as collector, under first bond	8,098 88	
(C.) Am't charged herein as spirit stamps received from himself, as collector, under 1st bond	5,357 25	
(D.) Am't charged herein as collections by predecessor on Emory's lists, twice credited	312 88	
		26,819 18
Difference as above stated		$2,555 27

Lists charged herein, viz:

March, 1870	$3,875 02
April, "	10,029 90
May, "	10,901 76
Annual "	33,626 43
	$58,433 11

FIFTH AUDITOR'S OFFICE, *April* 26, 1872.

Examined and stated by—

R. B. DETRICK.

COMPTROLLER' OFFICE, *May* 28, 1872.

Examined and reported by—

S. C. CLARK.

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54 No. 5743.]

TREASURY DEPARTMENT,
FIFTH AUDITOR'S OFFICE, *April* 6, 1871.

I hereby certify that I have examined and adjusted an account between the United States and B. B. Emory, collector for the third district of Mississippi, from July 1, 1870, to Sept. 30, 1870, and find him chargeable as follows (under bonds dated Oct. 11, 1869, and March 29, 1870):

To balance from last adjustment. Report No. 5117	60,613 85	
" amount of ass'or's lists receipted for, as per certificate of Commissioner and receipts in Comptroller's office, For 23¼	21,823 45	
		$82,437 30

I also find him entitled to credit as follows:

By amount of cash deposited as per 3 certificates herewith		14,940 56	
Warrants covering into Treasury amount of cash deposited:			
No. 360, 3rd qr., 1870	$9,812 41		
734, " " "	5,490 15		
	15,302 56		
Less—			
Revenue stamps included in warrant No. 360	362 00		
	$14,940 56		
By balance due the United States		67,496 74	
			$82,437 30

As appears from accounts and vouchers herewith transmitted for the decision of the Comptroller thereon.

H. D. BARRON, *Auditor.*

To the FIRST COMPTROLLER OF THE TREASURY.

$67,496.74.]

TREASURY DEPARTMENT,
COMPTROLLER'S OFFICE, *April* 13, 1871.

I admit and certify that a balance of sixty-seven thousand four hundred and ninety-six $\frac{74}{100}$ dollars is due the United States, as stated in the above report.

WM. HEMPHILL JONES,
Acting Comptroller.

To the REGISTER OF THE TREASURY.

55 *Statement of differences.*

Balance per account due to U. S	75,532 17	
" found per adjustment due to " "	67,496 74	
Difference to collector's credit		8,035 43
Explained thus:		
(1.) Outstanding credit difference from report, #5117	2,555 27	
(2.) 23½ credited 21,823.46; charged 21,823.45 Viz: error in crediting July list, .01.	01	
(3.) Deposits allowed $14,940.56; charged, $9,450.41	5,490 15	
		8,045 43
Less—		
(4.) Order of abatement charged, not allowed (no number given), probably No. 8709, credited in report #5117		10 00
Difference		$8,035 43

23½.

June, 1870	$8,076 34
July, "	6,791 95
August "	6,955 16
	$21,823 45

FIFTH AUDITOR'S OFFICE, *April* 6, 1871.

Examined and stated by—

H. F. T. MENILL.

COMPTROLLER'S OFFICE, *April* 13, 1871.

Examined and reported by—

W. E. KENDRICK.

56 For suit, No. 6393.]

TREASURY DEPARTMENT,
FIFTH AUDITOR'S OFFICE, *October* 10, 1871.

I hereby certify that I have examined and adjusted an account between the United States and Benjamin B. Emory, late collector for the 3d district of Mississippi, from October 1st, 1870, to June 30, 1871, and find him chargeable as follows (under bond dated October 11, 1869, March 29, 1870):

To balance from last adjustment, report No. 5743		67,496 74	
" amount of assessor's lists receipted for, as per certificate of Commissioner and receipts in Comptroller's office, Form 23½		(*a*) 30,191 77	
" amount collected on lists receipted for by predecessor in office		* 2,465 29	
" amount of tobacco and cigars stamps received, per Form 76		(*b*) 2,560 00	
" amount of cash received from W. C. V. Hicks, predecessor in office		537 60	
" amount of excess in accounting for tobacco stamps		12 24	
W. W. Willis	$359 25		
W. C. V. Hicks	2,106 04		
	*$2,465 29		
			$103,263 64

I also find him entitled to credit as follows:

By amount of cash deposited as per 15 certificates herewith		24,845 14
" amount of tobacco stamps and coupons returned per Com'r's certificate		877 04
" amount collected by predecessor in office, W. C. V. Hicks, on lists recepted for by coll'r		322 88
Warrants covering into Treasury amount of cash deposited:		
No. 95 4 q'r 1870	$8,103 25	
" 412 " " "	5,500 00	
" 606 " " "	6,500 00	
" 362 1st q'r 1871	3,416 89	
" 773 " " "	1,300 00	
" 529 2nd q'r 1871	25 00	
	$24,845 14	
" amount of stamps transferred to successor in office, viz:	tobacco, $6,353.64 spirits, 200.00	6,553 64

Form 23½.		Form 76.			
Sept. 1870	$6,715 50	Dec. 1870	b $2,560 00		
Oct. "	6,148 77				
Nov. "	3,768 95				
Dec. "	5,006 29				
Jan. 1871	3,752 90				
Feb'y "	3,317 64				
M'ch "	1,481 72				
	(a) $30,191 77				
Balance due the United States				$70,664 94	
					$103,263 64

As appears from accounts and vouchers herewith transmitted for the decision of the Comptroller thereon.

J. B. MANN,
Acting Auditor.

To the FIRST COMPTROLLER OF THE TREASURY.

For suit, $70,664.94.]

TREASURY DEPARTMENT,
COMPTROLLER'S OFFICE, *October* 24, 1871.

I admit and certify that a balance seventy thousand six hundred sixty-four and $\frac{94}{100}$ dollars is due to the United States as stated in the above report.

R. W. TAYLOR,
Comptroller.

To the REGISTER OF THE TREASURY.

57

Statement of differences.

Balance per account to September 30th, 1870, due to the United States			$75,532 17	
" found per adjustment to June 30th, 1871, due to the United States			70,664 94	
Difference to collector's credit				$4,867 23
(N. B.—The collector has failed to render his account for the period from Oct. 1, 1870, to June 30th, 1871.)				
Explained thus:				
Cr. (1st.) Outstanding difference to coll'r's credit per adjustment to Sept. 30th, 1870				$8,035 43
Arising thus:				
(*a.*) Amount credited by adjustment as cash deposited		$60,092 38		
Amount claimed per coll'r's acc't " " "		$54,064 53		
		$6,027 85		
NOTE.—As the collector has not furnished a schedule of his certificates of deposits there is no means of determining from papers on file how this difference arises.				
(*b.*) Amount credited per collector's account as collections made on lists receipted for by predecessor in office		$6,398 71		
			12,426 56	
Deduct:				
Amount charged per adjustment as lists receipted for on form 23½.		$111,933 48		
(*c.*) Am't credited per coll'r's acc't " " " " " " "		107,594 86		
		$4,338 62		
Caused thus:				
Am't of Sept., 1869, lists not credited per coll'r's ℀.	$4,338 63			
Less am't credited in excess per coll'r's ℀ on July, 1870, list	01			
	$4,338 62			
(*d.*) Amount claimed per collector's ℀ as collections by predecessor on his (Emory's) list		52 51		
			4,391 13	
Outstanding difference Sept. 30th, 1870, as above stated			8,035 43	

The following items are credited herein for period from Oct., 1870, to June 30th, 1871, viz:

(2.) Amount of cash deposited	24,845 14
(3.) Am't collected by predecessor in office on lists receipted for by Coll'r Emory	322 88
(4.) Am't of tobacco stamps transferred to successor in office, A. R. Howe	6,353 64
(5.) Am't of spirit stamps " " " " " " " "	200 00
(6.) Am't of tobacco stamps returned to the Commissioner of Internal Revenue	877 04
	40,634 13

Dr. per contra:

The following items are charged herein for period from Oct. 1st, 1870, to June 30th, 1871, viz:

(A.) Amount of lists receipted for on Form 23½		30,191 77	
(B.) Am't of tobacco stamps furnished, Form 76		2,560 00	
(C.) Am't of taxes collected on lists of predecessors in office, viz:			
W. W. Willis	$359 25		
W. C. V. Hicks	2,106 04		
		2,465 29	
(D.) Am't of cash received from W. C. V. Hicks, predecessor in office		537 60	
(E.) Am't of excess in accounting for tobacco stamps		12 24	
			35,766 90
Difference as above stated			$4,867 23

FIFTH AUDITOR'S OFFICE, *October 10th*, 1871.

Examined and stated by—

R. B. DETRICK.

COMPTROLLER'S OFFICE, *October 24th*, 1871.

Examined and reported by—

DICKINSON.

58 *Supplemental—for suit.*

No. 7024.]

TREASURY DEPARTMENT,
FIFTH AUDITOR'S OFFICE, *May 22nd*, 1872.

I certify that I have examined and adjusted an account between the United States and Benjamin B. Emory, late collector for the third district of Mississippi, from 18th, to June 30th, 1871, and find him chargeable as follows (under bond dated Oct. 11th, 1869; renewed March 29th, 1870):

To balance due from last adjustment. Rep't No. 6393	$70,664 94	
		$70,664 94

I also find him entitled to credits, as follows:

By amount of cash deposited as per certificate herewith	11,708 58	
" amount collected by successor on lists transferred to him, A. R. Howe, to April 30th, 1872	1,458 52	
Warrants covering into Treasury: Amount of cash deposited, viz, No. 605, 1st q'r 1872, $11,708.38, bal. per disb'g report, ‡ 6208.		
Balance due the United States	57,497 84	
		70,664 94

As appears from accounts and vouchers herewith transmitted for the decision of the Comptroller thereon.

J. H. ELA, *Auditor*.

To the FIRST COMPTROLLER OF THE TREASURY.

$57,497.84.]

TREASURY DEPARTMENT,
COMPTROLLER'S OFFICE, *May 28th*, 1872.

I admit and certify that a balance of fifty-seven thousand four hundred and ninety-seven and $\frac{84}{100}$ dollars is due to the United States, as stated in the above report.

WM. HEMPHILL JONES,
Acting Comptroller.

To the REGISTER OF THE TREASURY.

59 *Statement of differences.*

Balance per account due to the United States........	75,532 17	
" found per adjustment due to the " "	57,497 84	
Difference to collector's credit..........................		18,034 33
Explained thus:		
(*a*) (1) Outstanding difference to collector's credit per last report, ‡ 6393	4,867 23	
(2) Balance found due collector on his account as disbursing agent, and credited herein as cash deposited.............	11,708 58	
(3) Am't collected by successor up to April 30th, 1872, on lists receipted for by Collector Emory........................	1,458 52	
Difference as above stated..		18,034 33

FIFTH AUDITOR'S OFFICE, *May* 22, 1872.

Examined and stated by—

R. B. DETRICK.
M. A. J.

COMPTROLLER'S OFFICE, *May 28th*, 1872.

Examined and reported by—

S. C. CLARK.

60 [No. 2. (79.) Collector's quarterly account. Quarter ending March 31st, 1870.]

The United States (Office of Internal Revenue in) account with B. B. Emory, collector third district, Mississippi, Cr.

1	To balance as per last account rendered No. 1.	....	$117 14	15	By balance, as per last account rendered, No. 1.	....	26,247 34
4	" amount of cash deposited.	$17,072 73	17,072 73	16	" amount of errors in former accounts corrected, viz:		
14	" balance due the United States, viz:			17	" amount of taxes collected on lists receipted for by predecessor in office.	777 22	$777 22
	Cash..................	385 07					
	Tobacco and cigar stamps.	8,098 88					
	Spirit stamps..........	5,356 75		20	" amount of taxes receipted for on Form 23½, viz:		
	Uncollected taxes......	12,901 83	$26,742 53				
					List for month of December, 1869.	4,245 70	
					List for month of January, 1870.	6,698 26	
					List for month of February, 1870.	5,813 88	
				21			$16,757 84
					" amount of tobacco and cigar stamps and beer stamps received, as per following forms: Month. Form 76.		
					March, 1870, $150.00....	150 00	150 00
			$43,932 40				$43,932 40

Corinth, Mississippi, this 12th day of April, 1870.

B. B. EMORY,
Collector, Third District, Miss.

61 [No. 3rd. (79.) Prescribed February 6th, 1872. Collector's quarterly account.]

The United States (Office of Internal Revenue) in account with B. B. Emory, collector third district, Mississippi. Cr.

3	To amount of cash deposited.	....	22,292 27	15	By balance as per last account rendered, No. 2.	....	26,742 53
14	" balance due the United States, viz:			17	" amount of taxes collected on lists receipted for by predecessor in office.	85 75	
	Cash	844 71					
	Tobacco and cigar stamps.	8,087 44		20	" Amount of taxes receipted for on form 23½, viz:		
	Spirit stamps	4,857 50					
	Uncollected taxes	49,379 47					
			63,169 12		List for month of March, 1870.	3,875 02	
					List for month of April, 1870.	10,029 90	
					List for month of annual, 1870.	33,626 43	
					List for month of May, 1870.	10,901 76	
							58,518 86
					" Amount of stamps for distilled spirits received and guager's fees collected in excess as per following form: Month. Form 90.		
					June 16th, 1870, $200.00	....	200 00
			$85,461 39				$85,461 39

Holly Springs, Mississippi, this 29th day of July, 1870.

G. WILEY WELLS,
Act'g Collector, Third District, Mississippi.

62 [No. 4. (79.) Prescribed February 6th, 1872. Collector's quarterly account.]

The United States (Office of Internal Revenue) in account with B. B. Emory, collector 3rd district Mississippi, Cr.

3	To amount of cash deposited.	....	9,450 41	15	By balance as per last account rendered, No.	....	63,169 12
4	" amount of taxes abated by the Commissioner under sections 34 and 44, as per orders.	....	10 00	20	" amount of taxes receipted for on Form 23½, viz:		
14	" balance due the United States, viz:				List for month of June, 1870.	8,076 34	
	Cash	16,209 75			List for month of July 1870.	6,791 96	
	Tobacco and cigar stamps.	8,064 44			List for month of August, 1870.	6,955 16	
	Spirit stamps	4,845 75					21,823 46
	Uncollected taxes	46,412 23					
			75,532 17				
			84,992 58				$84,992 58

Holly Springs, Miss., this 21st day of October, 1870.

B. B. EMORY,
Collector, 3rd District, Miss.

63 (23½.)

Aggregate list of taxes assessed and returned to collector.

(To be executed in quadruplicate, one copy to be forwarded by the assessor to the Secretary of the Treasury, one copy to the First Comptroller of the Treasury, and one copy to the Commissioner of Internal Revenue, the other copy to be attached to the list on Form 23.)

I, A. P. Shattuck, assessor for the third collection district of Mississippi, hereby certify that I have this day delivered to B. B. Emory, collector for the same district, an alphabetical list of taxes assessed within said district for the month of September, 1869, amounting to four thousand three hundred thirty-eight and $\frac{63}{100}$ dollars, including the amount of his detailed statement, on Form 58, for the same month.

Dated at Okolona, Miss., this 8th day of November, 1869.
$4,338.63.] (Signed) A. P. SHATTUCK,
Assessor, Third District of Mississippi.

Collector's receipt.

I hereby acknowledge the receipt from A. P. Shattuck, assessor for the third district of Mississippi, a list as above described, amounting to four thousand three hundred thirty-eight $\frac{63}{100}$ dollars.

Dated at Corinth, Miss., this 13th day of November, 1869.
$4,338.63.] (Signed) B. B. EMORY,
Collector, Third District of Mississippi.

64 (23½.)

Aggregate list of taxes assessed and returned to collector.

(To be executed in quadruplicate, one copy to be forwarded by the assessor to the Secretary of the Treasury, and one copy to the First Comptroller of the Treasury, and one copy to the Commissioner of Internal Revenue, the other copy to be attached to the list on Form 23.)

I, A. P. Shattuck, assessor for the third collection district of Mississippi, hereby certify that I have this day delivered to B. B. Emory, collector for the same district, an alphabetical list of taxes assessed within said district for the month of September, 1870, amounting to seven hundred fifteen and $\frac{50}{100}$ dollars, as follows:

Assessment on Form 23	$6, 715 50
Total	$6, 715 50

(Signed) A. P. SHATTUCK,
Assessor, Third District of Mississippi.

Dated at Okolona, this 19th day of October, 1870.

Collector's receipt.

I hereby acknowledge the receipt from A. P. Shattuck, assessor for the third district of Mississippi, a list as above described, amounting to six thousand seven hundred fifteen and $\frac{50}{100}$ dollars.

Dated at Holly Springs, Miss., this 25th day of October, 1870.
$6,715.50.] (Signed) B. B. EMORY,
Collector, Third District of Mississippi.

65 (23½.)

Aggregate list of taxes assessed and returned to collector.

(To be executed in quadruplicate, one copy to be forwarded by the assessor to the Secretary of the Treasury, one copy to the First Comptroller of the Treasury, and one copy to the Commissioner of Internal Revenue, the other copy to be attached to the list on Form 23.)

I, A. P. Shattuck, assessor for the third collection district of Mississippi, hereby certify that I have this day delivered to B. B. Emory, collector for the same district, an alphabetical list of taxes assessed within said district for the month of October, 1870, amounting to six thousand one hundred forty-eight and $\frac{77}{100}$ dollars, as follows:

Assessment on Form 23	$6,148 77
Total	6,148 77

Dated at Okolona, Miss., this 18th day of Nov., 1870.
(Signed) A. P. SHATTUCK,
Assessor, Third District of Mississippi.

Collector's receipt.

I hereby acknowledge the receipt from A. P. Shattuck, assessor for the third district of Mississippi, a list as above described, amounting to six thousand one hundred forty-eight and $\frac{77}{100}$ dollars.

Dated at Holly Springs, Miss., this 20th day of Nov., 1870.
$6,148.77.] (Signed) B. B. EMORY,
Collector, Third District of Mississippi.

66 (23½.)

Aggregate list of taxes assessed and returned to collector.

(To be executed in quadruplicate, one copy to be forwarded by the assessor to the Secretary of the Treasury, one copy to the First Comptroller of the Treasury, and one copy to the Commissioner of Internal Revenue, the other copy to be attached to the list on Form 23.)

I, A. P. Shattuck, assessor for the third collection district of Mississippi, hereby certify that I have this day delivered to B. B. Emory, collector for the same district, an alphabetical list of taxes assessed within said district for the month of November, 1870, amounting to three thousand seven hundred sixty-eight and $\frac{95}{100}$ dollars, as follows:

Assessment on Form 23	$3,768 95
Total	$3,768 95

Dated at Okolona, Miss., this 20th day of Dec., 1870.
(Signed) A. P. SHATTUCK,
Assessor, 3rd District of Mississippi.

Collector's receipt.

I hereby acknowledge the receipt from A. P. Shattuck, assessor for the third district of Mississippi, a list as above described, amounting to three thousand seven hundred sixty-eight and $\frac{95}{100}$ dollars.

Dated at Holly Springs, Miss., this 24th day of December, 1870.
$3,768.95.] (Signed) B. B. EMORY,
Collector, Third District of Mississippi.

67 (23½.)

Aggregate list of taxes assessed and returned to collector.

(To be executed in quadruplicate, one copy to be forwarded by the assessor to the Secretary of the Treasury, one copy to the First Comptroller of the Treasury, and one copy to the Commissioner of Internal Revenue, the other copy to be attached to the list on Form 23.)

I, A. P. Shattuck, assessor for the third collection district of Mississippi, hereby certify that I have this day delivered to B. B. Emory, collector for the same district, an alphabetical list of taxes assessed within said district for the month of December, 1870, amounting to five thousand six and $\frac{29}{100}$ dollars, as follows:

Assessment on Form 23	$5,006 29
Total	5,006 29

Dated at Okolona, Miss., this 23rd day of January, 1871.
(Signed) A. P. SHATTUCK,
Assessor, 3rd District of Mississippi.

Collector's receipt.

I hereby acknowledge the receipt from A. P. Shattuck, assessor for the third district of Mississippi, a list as above described, amounting to five thousand and six $\frac{29}{100}$ dollars.

Dated at Holly Springs, Miss., this 27th day of January, 1871.
$5,006.29.] (Signed) B. B. EMORY,
Collector, 3rd District of Mississippi.

68 (23½.)

Aggregate list of taxes assessed and returned to collector.

(To be executed in quadruplicate, one copy to be forwarded by the assessor to the Secretary of the Treasury, one copy to the First Comptroller of the Treasury, and one copy to the Commissioner of Internal Revenue, the other copy to be attached to the list on Form 23.)

I, A. P. Shattuck, assessor for the third collection district of Mississippi, hereby certify that I have this day delivered to B. B. Emory, collector for the same district, an alphabetical list of taxes assessed within said district for the month of January, 1871, amounting to three thousand seven fifty-two and $\frac{90}{100}$ dollars, as follows:

Assessment on Form 23	$3,752 90
Total	$3,752 90

Dated at Okolona, Miss., this 20th day of February, 1871.
(Signed) A. P. SHATTUCK,
Assessor, Third District of Mississippi.

Collector's receipt.

I hereby acknowledge the receipt from A. P. Shattuck, assessor for the third district of Mississippi, a list as above described, amounting to three thousand seven hundred and fifty-two $\frac{90}{100}$ dollars.

Dated at Holly Springs, Miss., this 23d day of February, 1871.
$3,752.90] (Signed) B. B. EMORY,
Collector, Third District of Mississippi.

69 (23½.)

Aggregate list of taxes assessed and returned to the collector.

(To be executed in quadruplicate, one copy to be forwarded by the assessor to the Secretary of the Treasury, one copy to the First Comptroller of the Treasury, and one copy to the Commissioner of Internal Revenue, the other copy to be attached to the list on Form 23.)

I, A. P. Shattuck, assessor for the third collection district of Mississippi, hereby certify that I have this day delivered to B. B. Emory, collector for the same district, an alphabetical list of taxes assessed within said district for the month of February, 1871, amounting to three thousand three hundred seventeen and $\frac{64}{100}$ dollars, as aforesaid.

Assessment on Form 23	$3,317 64
Total	$3,317 64

Dated at Okolona, this 20th day of March, 1871.
(Signed) A. P. SHATTUCK,
Assessor, 3rd District of Mississippi.

Collector's receipt.

I hereby acknowledge the receipt from A. P. Shattuck, assessor for the third district of Mississippi, a list as above described, amounting to three thousand three hundred and seventeen $\frac{64}{100}$ dollars.

Dated at Holly Springs, Miss., this 24th day of March, 1871.
$3,317.64.] (Signed) B. B. EMORY,
Collector, Third District of Mississippi.

70 (23½.)

Aggregate list of taxes assessed and returned to collector.

(To be executed in quadruplicate, one copy to be forwarded by the assessor to the Secretary of the Treasury, one copy to the First Comptroller of the Treasury, and one copy to the Commissioner of Internal Revenue, the other copy to be attached to the list on Form 23.)

I, A. P. Shattuck, assessor for the third collection district of Mississippi, hereby certify that I have this day delivered to B. B. Emory, collector for the same district, an alphabetical list of taxes assessed within said district for the month of March, 1871, amounting to one thousand four hundred eighty-one and $\frac{72}{100}$ dollars, as follows:

Assessment on Form 23	$1,481 72
Total	$1,481 72

Dated at Okolona, Miss., this 20th day of April, 1871.
(Signed) A. P. SHATTUCK,
Assessor, 3rd District of Mississippi.

Collector's receipt.

I hereby acknowledge the receipt from A. P. Shattuck, assessor for the third district of Mississippi, a list as above described, amounting to one thousand four hundred eighty-one and $\frac{72}{100}$ dollars.

Dated at Holly Springs, Miss., this 25th day of April, 1871.
$1,481.72.] (Signed) B. B. EMORY,
Collector, Third District of Mississippi.

F. 176.]

71 (76.)

(To be forwarded to the Commissioner of Internal Revenue on or before the 10th day of each month.

Report of B. B. Emory, collector of the third district of the State of Mississippi, of tobacco and cigar stamps received, sold, and returned during the month of December, 1870, and of those remaining on hand on the first day of the succeeding month.

TOBACCO—TAX TWENTY-TWO CENTS PER POUND.

	Number of each denomination.								Aggregate value.
	½ lb.	1 lb.	2 lbs.	3 lbs.	5 lbs.	10 lbs.	20 lbs.	60 lbs.	
On hand the 1st of December, 1870	99	152	168	192	97	95		258	5,769 12
Received December, 1870							400		2,560 00
Total	99	152	168	192	97	95	400	258	$8,329 12
On hand 1st of January, 1870	99	152	168	192	97	95	400	258	$8,329 12

TOBACCO—CLASS SIXTEEN CENTS.

	Number of each denomination.				Aggregate value.
	2 oz.	4 oz.	8 oz.	16 oz.	
On hand the 1st of Dec., 1870	1,786	1,597	4,085	2,812	876 32
Total	1,786	1,597	4,085	2,812	876 32
On hand 1st of Jan'y, 1871	1,786	1,597	4,085	2,812	876 32

CIGARS AND CIGARETTES—CLASS FIVE DOLLARS PER THOUSAND.

	Number of each denomination.	
	100's	Aggregate
On hand 1st of Dec., 1870	254	127 00
Total	254	$127 00
On hand 1st of Jan'y, 1871	254	$127 00

I hereby certify that the above statement is correct and true. Dated at Holly Springs, Miss., January 10th, 1871.

B. B. EMORY,
Collector, 3d District, Miss.

Filed Jan'y 4th, 1876. G. R. Hill, clerk.

72 TREASURY DEPARTMENT, REGISTER'S OFFICE,
Washington, D. C., September 18th, 1875.

Pursuant to section 886 of the Revised Statutes of the United States, I, John Allison, Register of the Treasury Department, do hereby certify that the annexed copy of the report of the Fifth Auditor of the Treasury, numbered 10380, as admitted and certified by the Comptroller upon the account of Benjamin B. Emory, late collector of internal revenue for the third collection district of Mississippi, and of the statement of differences thereon, also copy of an itemized summary statement of the account of said Emory, are a transcript from the books and proceedings of the Treasury.

JOHN ALLISON, *Register.*

Be it remembered that John Allison, esq., who certified the annexed transcript is now, and was at the time of doing so, Register of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof I, B. H. Bristow, Secretary of the Treasury of the United States, have hereunto subscribed my name and caused to be affixed the seal of this department, at the city of Washington, this eighteenth day of September, in the year of our Lord 1875.

[SEAL.] B. H. BRISTOW,
Secretary of the Treasury.

73 *Supplemental—for suit.*

No. 10380.]

TREASURY DEPARTMENT,
FIFTH AUDITOR'S OFFICE,
August 31*st*, 1875.

I hereby certify that I have examined and adjusted an account between the United States and Benjamin B. Emory, late collector for the third district of Mississippi, from , 187 , to June 30th, 1871, and find him chargeable as follows (under bond of March 29th, 1870):

To balance from last adjustment, report No. 7024	$57, 497 84	
		$57, 497 84
I also find him entitled to credits as follows:		
By amount of taxes abated by Commissioner's order Nos. 4845, 5199, 5417, 5537, 5771, 6191, 7309, 7453, 8753	2, 293 57	
" amount of tobacco stamps and coupons returned, 1 book	64 00	
" amount of spirit stamps and coupons returned, 5 books	3, 602 50	
" amount collected by successors on lists transferred to *to* them, viz: A. R. Howe, 1,065.91, E. P. Hatch, 1,117.94	2, 183 85	
" amount collected by predecessor, W. W. Willis, on lists receipted for by collector	30 00	
" amount of taxes on lists transferred to Francis Widmer, coll. 2nd dist., Ala	147 80	
" amount of stamps transferred to successor, A. R. Howe, viz, Form 68—$76, 90, $150.00	150 00	
By balance due the United States	49, 026 12	
		$57, 497 84

As appears from accounts and vouchers herewith transmitted for the decision of the Comptroller thereon.

J. B. MANN, *Acting Auditor.*

To the FIRST COMTROLLER OF THE TREASURY.

74 $49,026.12.]

TREASURY DEPARTMENT,
COMPTROLLER'S OFFICE,
September 11*th*, 1875.

I admit and certify that a balance of forty-nine thousand and twenty-six and $\frac{12}{100}$ dollars is due to the United States, as stated in the above report.

R. W. TAYLOR, *Comptroller.*

To the REGISTER OF THE TREASURY.

Statement of differences.

Balance per account due to the United States		$75, 532 17	
“ found per adjustment due to “ “		49, 026 12	
Difference to collector's credit			$26, 506 05
Explained thus:			
Cr. * Outstanding difference per last report, No. 7024		$18, 034 33	
To which add the following items credited herein, viz:			
(a) Taxes abated	2, 293 57		
(b) Tobacco stamps returned	64 00		
(c) Spirits “ “	3, 602 50		
(d) Collections by successor on list of Emory	2, 183 85		
(e) Collections by predecessor “ “ “ “	30 00		
(f) Taxes transferred to Francis Widmer, coll. 2nd Ala	147 80		
(g) Spirit stamps transferred to successor, A. R. Howe	150 00		
		8, 471 72	
Difference as above stated			$26, 506 05

75 FIFTH AUDITOR'S OFFICE, *Aug.* 31*st*, 1875.

Examined and stated by—

R. B. DETRICK.

COMPTROLLER'S OFFICE, *September* 11*th*, 1875.

Examined and reported by—

S. C. CLARKE.

76 *Benjamin B. Emory, late collector 3rd district of Mississippi, in account with the United States, under bond of March 29th, 1870.*

DR.

(Term of office from March 29th, 1870, to June 30th, 1871, 2nd bond.)

1870.			
	To balance transferred from account under his 1st bond	$4, 027 52	
March 29.	To amount of uncollected taxes received from himself as late collector under bond of Oct. 11th, 1869	13, 020 17	
“ “	“ “ tobacco stamps received from himself as late collector under bond of Oct. 11th, 1869	8, 098 88	
“ “	“ “ spirit stamps received from himself as late collector under bond 11th, 1869	5, 357 25	
April 16.	“ “ taxes receipted for March, 1870, Form 23½	3, 875 02	
May 7.	“ “ “ “ “ annual, “ “	33, 626 43	
“ 18.	“ “ “ “ “ April “ “	10, 029 90	
June 16.	“ “ spirit stamps furnished him	200 00	
“ 28.	“ “ taxes receipted for May, 1870, Form 23½	10, 901 76	
July 13.	“ “ “ “ “ June, “ “ “	8, 076 34	
Aug. 27.	“ “ “ “ “ July, “ “ “	6, 791 95	
Sept. 22.	“ “ “ “ “ August, “ “ “	6, 955 16	
Oct. 25.	“ “ “ “ “ September, “ “ “	6, 715 50	
Nov. 20.	“ “ “ “ “ October, “ “ “	6, 148 77	
Dec. 1.	“ “ tobacco stamps furnished him	2, 560 00	
“ 24.	“ “ tax receipts for Nov., 1870, Form 23½	3, 768 95	
1871.			
Jan'y 27.	“ “ “ “ “ Dec., “ “ “	5, 006 29	
Feb'y 23.	“ “ “ “ “ Jan'y, 1871, “ “	3, 752 90	
March 24.	“ “ “ “ “ Feb., “ “ “	3, 317 64	
April 26.	“ “ “ “ “ March, “ “ “	1, 481 72	
	“ “ taxes collected on the May, 1869, list, which was receipted for by predecessor, W. W. Willis, as per Form 51	39 25	
	“ “ taxes collected on list for June, July, & August, 1869, which were receipted for by predecessor, W. C. V. Hicks, as per Form 51	43 00	
	“ “ tobacco stamps accounted for in excess as per his Form 76, for June & Feb'y, 1871	12 24	
			$143, 806 64

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* For explanation of outstanding difference, see reports No. 6393 and 7024.

1870.				
April	1st.	By amount of cash deposited in 1st. Nat'l Bank, Memphis	3,643 05	
“	7.	“ “ “ “ “ “ “ “ “ “	349 70	
May	3.	“ “ “ “ “ “ “ “ “ “	500 00	
“	9.	“ “ “ “ “ “ “ “ “ “	2,567 76	
“	31.	“ “ “ “ “ “ “ “ “ “	800	
June	7.	“ “ “ “ “ “ “ “ “ “	3,668 88	
“	23.	“ “ “ “ “ “ “ “ “ “	3,425 93	
“	27.	“ “ “ “ “ “ “ “ “ “	10,980	
Aug.	9.	“ “ “ “ “ “ “ “ “ “	1,500	
“	15.	“ “ “ “ “ “ “ “ “ “	7,950 41	
Sept.	26.	“ “ “ “ “ “ “ “ “ “	5,490 15	
Oct.	4.	“ “ “ “ “ “ “ “ “ “	1,703 25	
“	28.	“ “ “ “ “ “ “ “ “ “	4,500	
“	29.	“ “ “ “ “ “ “ “ “ “	1,900	
Nov.	23.	“ “ “ “ “ “ “ “ “ “	3,500	
“	30.	“ “ “ “ “ “ “ “ “ “	2,000	
Dec.	20.	“ “ “ “ “ “ “ “ “ “	500	
“	30.	“ “ “ “ “ “ “ “ “ “	5,000	
“	31.	“ “ “ “ “ “ “ “ “ “	1,000	
1871.				
Feb'y	1st.	“ “ “ “ “ “ “ “ “ “	1,000	
“	28.	“ “ “ “ “ “ “ “ “ “	2,416 89	
Mar.	25.	“ “ “ “ “ “ “ “ “ “	25 00	
“	29.	“ “ “ “ “ “ “ “ “ “	800 00	
“	31.	“ “ “ “ “ “ “ “ “ “	500 00	
Aug.	26.	“ “ tobacco stamps returned	941 04	
		“ “ “ “ transferred to successor	6,353 64	
		“ “ spirits stamps returned	3,602 50	
		“ “ “ “ transferred to successor	350 00	
		“ “ taxes abated by the following orders, viz.: No. 8709, $10; No. 4845, $30; No. 5199, $216; 5419, $201.20; No. 5537, $105; 5771, $210.57; 6191, $21; No. 7309, $876.28; No. 7453, $560.85; 8753, $81.67	2,303 57	
		“ “ taxes on his list collected by his predecessor, W. C. V. Hicks	10 00	
		“ “ taxes on his list collected by his successors, A. R. Howe $2,524 43 E. P. Hatch 1,117 94	3,642 37	
		“ “ taxes on his list transferred to F. Widmer, late collector 2nd dist. Alabama	147 80	
1872.				
Mc'h	18.	“ “ *amount* found due him on his account as disb'g agent, credited as cash deposited	11,708 58	
		Balance due the United States	49,026 12	
				$143,806 64

77	Balance per account to September 30th, 1870, due U. S.	$75,532 17	
	“ found per adjustment “ “	49,026 12	
	Difference to collector's credit		$26,506 05

NOTE.—The collector has failed to render his account for period from Oct. 1st, 1870, to June 30th, 1871.

Difference explained thus:

CR.

1. Outstanding difference to March 29th, 1870, 1st bond		22,715 01
2. Cash deposited per adjustment	$65,721 02	
per collector's account	31,742 68	
		33,978 34
Caused thus: Amount deposited April 1st, 1870, claimed in collector's account under 1st bond	$3,643 05	
The following deposits have not been claimed in coll'r's ℀, viz:		
Deposit of Sept. 26th, 1870	5,490 15	
Oct. 4th, 1870, $1,703.28; Oct. 28th, 1870, $4,500.00; Oct. 29th, 1870, $1,900; total	8,103 25	
Nov. 23d, 1870, $3,500; Nov. 30th, 1870, $2,000.00; Oct. 29th, 1870, $1,900; total	5,500 00	
Dec. 20th, 1870, $500; Dec. 30th, 1870, $5,000; Dec. 31st, 1870, $1.000.	6,500 00	
Feb'y 1st, 1871, $1,000; Feb'y 28th, 1871, $2,416.89	3,416 89	
March 25th, “ $25.00; May 29th, “ $800; March 31st, 1871, $500.	1,325 00	
	$33,978 34	
(3) Balance on disb'g ℀ credited herein as cash deposited		11,708 58
(4) Taxes abated and am't credited herein	$2,303 57	
Am't claimed per ℀	10 00	
		2,293 57

NOTE.—None of the orders credited herein have been claimed per coll'r's ℀, except the first named, No. 8709.

(5) Collections on lists of predecessor, credited per coll'r's ℀	85 75	
Charged herein	82 25	
		3 50
(6) Am't credited herein on tobacco stamps returned		941 04

(7) " " " " " " transferred to successor.		6,353 64	
(8) " credited herein as spirit stam's returned		3,602 50	
(9) " " " " " " transferred to successor		350 00	
(10) " credited hereon as collections on Emory's list, by predecessor Hicks		10 00	
(11) " " " " " " " " " successors.		3,642 37	
(12) " " " " taxes transferred to F. Widmer, 2d dist., Ala		147 80	
			85,746 35
Carried forward			85,746 35
Amount brought forward			$85,746 35
DR. (per contra).			
(a) Taxes receipted for on Form 23½ charged herein	$110,448 33		
Credited per account	80,256 57		
		30,191 76	
Caused thus: The collector has not given credit on his a/c for the following lists, viz:			
Sept., 1870, $6,715.50; Oct., 1870, $6,148,77; total	12,864 27		
Nov., 1870, $3,768.95; Dec., " $5,006.29; "	8,775 24		
Jan., 1871, $3,752.90; Feb'y, 1871, $3,317.64; "	7,070 54		
March, " $1,481.72; " " "	1,481 72		
	30,191 77		
Deduct:			
Am't credited in excess per coll'r's a/c, on July, 1870, list	01		
	30,191 06		
(b) Tobacco stamps furnished him by department		2,560 00	
(c) Uncollected taxes received from him as collector under 1st bond.		13,020 17	
(d) Tobacco stamps " " " " " " "		8,098 88	
(e) Spirit stamps " " " " " " "		5,357 25	
(f) Am't charged herein as excess in accounting for tobacco stamps.		12 24	
			59,240 30
Difference as above			$26,506 05

78 TREASURY DEPARTMENT,
FIFTH AUDITOR'S OFFICE, *August 31st*, 1875.

I hereby certify that the within is a true statement of the revenue account of Benjamin B. Emory, late collector of internal revenue of the 3rd district of Mississippi, from the period from March 29th, 1870, to June 30th, 1871, as appears from accounts and vouchers herewith transmitted for the decision of the Comptroller thereon.

J. B. MANN,
Act'g Auditor.

To the FIRST COM'TROLLER OF THE TREASURY.

TREASURY DEPARTMENT,
COMPTROLLER'S OFFICE, *September 11th*, 1875.

I certify that the within is an itemized summary statement of the revenue account of said late collector, Benjamin B. Emory, for the period stated, as adjusted, showing a balance of forty-nine thousand and twenty-six & $\frac{12}{100}$ dollars ($49,026.12) are due to the United States, as reported.

R. W. TAYLOR, *Comptroller.*

Filed June 4th, 1876. G. R. Hill, clerk.

79 TREASURY DEPARTMENT, REGISTER'S OFFICE,
Washington, D. C., May 9th, 1879.

Pursuant to section 886 of the Revised Statutes of the United States, I, G. W. Scofield, Register of the Treasury Department, do hereby certify that the annexed papers are true copies from the books and proceedings of the Treasury Department in the matter of certain applications for the abatement of internal revenue taxes to B. B. Emory, late collector of internal revenue for the third district of Mississippi.

M. H.] G. W. SCOFIELD, *Register.*

Be it remembered that G. W. Scofield, esq., who certified the annexed transcript, is now, and was at the time of doing so, Register of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof I, John B. Hawley, Secretary of the Treasury of the United States, have hereunto subscribed my name and caused to be affixed the seal of this department, at the city of Washington, this ninth day of May, in the year of our Lord 1879.

[SEAL.] JOHN B. HAWLEY, Jr.,
M.] *Secretary of the Treasury.*

80 *Schedule of claims for abatement of taxes alleged to have been erroneously assessed in the 3rd collection district of Mississippi, reported in the several specified lists for* 1869 *&* '70, *for which credit is requested, the claims being presented in accordance with the regulations of the Commissioner of Internal Revenue, by B. B. Emory, late collector.*

(Schedule of claims will be returned to collectors unless the pages and lines are filled up in the collector's columns.)

No. of claim.	No. of affidavit.	Name.	Address.	Article or occupation.	Page and line on assessor's list.	Page and line on list in collector's office.	Date when tax was returned for collection.	Name of collector who receipted for the tax.	Reason for abatement.	Amount claimed.	Amount abated as erroneous.	Amount rejected.
					December list, 1869.				Improperly assessed.			
*	*	*	Grenada	*	7 *	*	....	B. B. Emory...	"	*	*	....
†4	3	Rayburn, W. A.	"	Ins. agent...	" 31	7 31	....	" "	"	50 00	40 00	10 00
*	*	*	....	....	*	*	....	....	....	*	*	*
*	*	*	*	*	*	*	....	*	"	*	*	*
											560 85	118 50

†No cause for abatement of the balance.

Collector's certificate.

UNITED STATES COLLECTOR'S OFFICE,
3RD DISTRICT OF MISSISSIPPI,
September 30th, 1873.

I hereby certify that I have carefully investigated the facts set forth in the several affidavits accompanying this schedule, and am satisfied that, with the exception of Nos. they are in all respects just and true; and I further certify from personal examination that all the names and taxes enumerated within are found on the pages and lines as indicated in the respective lists now on file in my office; and that each of the said several taxes is included in my aggregate receipt for the list to which it belongs, as reported to the office of internal revenue; and I further certify that no credit has heretofore been allowed in any form on account of any of the taxes within enumerated, and that none of them have been collected and reported in any monthly abstract, and that the credit for such of the taxes herein named as may be abated by the Commissioner of Internal Revenue, should be given to B. B. Emory, late collector.

E. P. HATCH,
Collector 3rd District, Mississippi.

Certificate.

OFFICE OF INTERNAL REVENUE,
Jan'y 28th, 1874.

I hereby certify that from a present personal examination I find all the taxes for which credit is claimed in the within schedule on the specified pages and lines of the lists on file in office.

J. F. JOHNSON,
Clerk in charge of Assessors' Record.

(☞When the collector excepts to an affidavit or claim he should give his reasons for doing so in a note attached to the schedule.)

81 Order No. 7453.

Schedule No. 7.
" " 21.

Amount claimed	$679 35
Amount rejected	$118 50
Amount allowed	$560 85

Application for abatement of taxes alleged to have been erroneously assessed, and standing charged against[*] B. B. Emory, late collector of 3rd district of Mississippi.

Abated to the amount of five hundred & sixty dollars and eighty-five cents.
($560.85.)

J. W. DOUGLASS,
Commissioner of Internal Revenue.

Examined and allowed by Breckenridge.

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[*] The name appearing here should be that of the collector against whom the taxes on the schedule stand charged in the office of the Commissioner of Internal Revenue.
Oct. 6, 1873.—W. N. J.

82 [Liverpool & London & Globe Insurance Co.; assets, $17,690,000 gold. N. Y. Life Insurance Co.; assets, $13,000,000.]

OFFICE OF GENERAL AGENCY OF J. E. JOHNSTON & CO.,
Selma, Ala., Apr. 1st, 1870.

We hereby certify that W. A. Rayburn, of Grenada, Miss., is simply authorized by us as general agent of the Liverpool & London & Globe Ins. Co. to solicit risks, with no power to issue policies; acting simply as our agent in this particular, and in nowise known to the company; his applications being always subject to our approval or disapproval, and in every instance sent to us for our action. He has never issued a policy for the company, and we have no authority whatever to authorize him to do so, the company only knowing us as its general agents, and only allowing or giving to us the privilege of issuing policies for it.

J. E. JOHNSTON & CO.,
Gen'l Ag'ts for Liverpool & London & Globe Ins. Co.

83 (47.)

Claim under circular No. 21, for remission of taxes improperly assessed.

STATE OF MISSISSIPPI,
County of Yalobusha, ss:

W. A. Rayburn, of the town of Grenada, and State and county aforesaid, being duly sworn according to law, deposes and says that, during the month of December, 1869, that he was engaged in the business of insurance agent. That upon the 26th day of December, A. D. 1869, he was assessed by E. J. Dowling, ass't assessor of the 3rd district of said State, an internal revenue tax of fifty ($50.00) dollars, which assessment of the aforesaid tax was, as this deponent verily believes, erroneous and improp'er, for the following reasons, viz:

The opinion of Commissioner Delano, in his circular April 12, 1870, addressed to J. Crocket Sayers, assessor, at Covington, K'y.

I am only soliciting risks in Mississippi for the agents who pay their taxes as foreign insurance agents. And this deponent now claims that by reason of the aforesaid assessment of the said sum of fifty ($50.00) dollars, he is justly entitled to have the same remitted, and he now asks and demands the same.

WM. A. RAYBURN.

Sworn and subscribed before me this 10th day of February, A. D. 1870.

E. J. DOWLING,
Ass't Assessor.

84 *Assistant assessor's certificate.*

I hereby certify that I have carefully investigated the facts set forth in the within affidavit, and I believe the statements to be in all respects just and true.

E. J. DOWLING,
Ass't Assessor 6th Div., 3d Dist.

Assessor's certificate.

I hereby certify that, upon careful examination, I find the within named assessments appear upon the lists in this office, as follows:

Name.	Article or occupation.	List.	Form.	Page.	Line.	Amount.
Rayburn, W. A	Foreign ins. ag't	Dec., '69	97	7	31	50 00

A. A. SHATTUCK,
Assessor of the 3rd District of Miss.

$50.00.] (47.) Claim for remission of taxes uncollected. Affidavit of W. A. Rayburn in support of claim No. 9, in schedule No. from Dec. alphabetical list for 1869, in the 3rd district of Mississippi. Allow $40. Reject $10. Breckenridge.

85 STATE OF MISSISSIPPI,
County of Lee, ss:

T. L. Schumport, of the town of Shannon, & State and county aforesaid, being duly sworn according to law, deposes and says that he was a member of the firm of T. L. & H. Schumport; that the said firm were engaged in the mercantile business in the years of 1870 & 1871; that the said firm paid ten dollars each of said years to the collector or his deputy. The said ten dollars each year was paid for the privilege of doing business as merchants, & was paid at the store of said firm in the said town of Shannon, & for said amounts so paid, there were proper receipts taken of the U. S. collector or his deputy at the time and place of said payments as *as* above stated, which said receipts are now lost and cannot be found.

T. L. SCHUMPERT.

Subscribed and sworn to before me this 29th day of December, 1874.

D. SPARKS, *J. P.*

86 STATE OF MISSISSIPPI,
Lee County:

I, W. M. Cunningham, clerk of the circuit court of said county, hereby certify that D. Sparks, whose official signature appears to the foregoing affidavit is, and was at the time of signing thereof, an acting justice of the peace, duly commissioned in and for said county and State, and as such his official acts are entitled to full faith and credit.

Given under my hand and seal of office affixed at Tupelo, the 30th day of December, 1874.

[SEAL.]

W. M. CUNNINGHAM, *Clerk,*
By W. W. STONE, *D. C.*

UNITED STATES INTERNAL REVENUE OFFICE,
3RD DISTRICT OF MISSISSIPPI,
Holly Springs, Dec. 23d, 1874.

E. D. HALL, Esq.,
Deputy Collector, Okolona, Miss.:

SIR: I enclose papers in case of Schumpert before referred to you.

There is no assessment on the lists in this office against them as retail dealers for the same year; I think it must be a mistake that they paid the $10.00 which you state. They must show that they either paid as retail dealers or were not in business prior to December, and make oath to it. Return all the papers.

Very respectfully,

E. P. HATCH,
Collector.

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87 $12.50.] (Copy.) [N. 135.

(5.)

United States internal revenue receipt for special tax.

Received of T. L. & H. Schumport twelve & fifty hundre'ths dollars for the special tax upon the business or occupation of retail liquor and tobacco dealer, to be carried on at Shannon, in the county of Lee, and State of Mississippi, for the year ending May 1st, 1871.

Dated at Tupelo, Miss., May 6th, 1871.

A. D. JONES,
Deputy Collector of the 3rd Dist., State of Miss.

I hereby certify the above is a true copy of a receipt now in the hands of one of the above-named firm, said copy made by me this 22' day of August, 1874.

E. D. HALL,
Deputy Collector.

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88 $12.50.] [No. 135.

United States internal revenue receipt for special tax.

Received of T. L. & H. Shumpert twelve and fifty hundre'th' dollars for the special tax upon the business or occupation of retail liquor & tobacco dealer, to be carried on Shannon street in the of county of Lee, and State of Mississippi, for the year ending May 1st, 1871.

Dated at Tupelo, Miss., May 6th 1871.

A. D. JONES,
Dept. Collector of the 3rd Dist., Miss.

We only commenced some time in December, retailing liquor, so Mr. A. D. Jones only exacted the propo'tional part of the tax, so if he was wrong it aint our fault, so if we have to pay the balance we ought not pay any expenses the part of the firm is de'd, and broken, and the surviving partner is broke and now working for wages.

Yours truly,

T. L. SHUMPERT.

UNITED STATES INTERNAL REVENUE,
ASSESSOR'S OFFICE, 3RD DIST. MISS.,
Okolona, August 22nd, 1874.

SIR: Inclosed herewith I send you a copy of a receipt Mr. Shumpert, of Shannon, handed me to-day. The receipt was made on a printed blank
and evidently genuine. Mr. Shumpert says they commenced busi-
89 ness in the fore part of December, of the year for which the re-

ceipt is given. That Jones claimed pay for the whole year, which he, Shumpert, refused, and paid only as per receipt. This receipt specifies tobacco which Shumpert says they never sold at all during the year.

Respectfully,

E. D. HALL,
Dep. Coll.

Hon. E. P. HATCH,
Collector, Holly Springs, Miss.

UNITED STATES INTERNAL REVENUE,
DEP'Y COLLECTOR'S OFFICE, 3RD DIST. MISS.,
Okolona, Jan'y 4th, 1875.

SIR: I enclose the papers in the Schumpert case, together with an affidavit which he has made in the case. That is all he can do he says, as the receipts are lost. If that is not sufficient please return the papers, and I will collect the amount if possible, although I think that will be a doubtful case.

Respectfully,

E. D. HALL,
Dep'y Coll.

Hon. E. P. HATCH,
Collector, Holly Springs, Miss.

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90 UNITED STATES INTERNAL REVENUE,
ASSESSOR'S OFFICE, 3RD DIST. MISS.,
Okolona, Aug 6th, 1874.

SIR: Mr. T. L. Schumpert, of Shannon, Lee Co., Miss., claims an abatement of a revenue tax of $17.50.

He says that from May 1, '70 to May 1, '71, under firm name of T. L. & H. Schumpert, he was engaged in merchandising; that he paid $10 revenue tax for the privilege of carrying on said business. That in December of said year they commenced to sell whisky, and that some time after said commencement to sell whisky they paid to Deputy Jones, of Corinth, twelve & $\frac{50}{100}$ dollars for said privilege to sell whisky. That he now has receipts for the said amounts of 10 & 12½ dollars revenue taxes as above stated.

If after an examination of the assessment books and this statement of Mr. Schumpert you find he is entitled to an abatement, please fill out an application suitable for the case for him to swear to, and forward the same to me, and I will attend to the matter at once.

Respectfully,

E. D. HALL, *D. C.*

Hon. E. P. HATCH,
Collector, Holly Springs, Miss.

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91 (47.)

Claim under series 6, No. 14, for remission of taxes improperly assessed.

STATE OF MISSISSIPPI,
County of Lee, ss:

T. L. Schumpert, of the town of Shannon, and State and county aforesaid, being duly sworn according to law, deposes and says, that he is a member of the firm of T. L. & H. Schumpert; that they were engaged in the business of ret. liq. & tob. dealers; that upon the day of January, A. D. 1871, they were assessed by E. C. Jaquith, asst. assessor of the 3rd dist. of said State, an internal revenue tax of thirty dollars as ret. liq. & manufactured tobacco dealers, which assessment of the aforesaid tax was, as this deponent verily believes, erroneous and improper, for the following reasons, viz:

That from May 1st, 1870, to December 1st, 1870, seven months of the period covered by said assessment, they neither sold nor offered for sale any foreign or domestic distilled spirits, wines, or malt liquors, manufactured tobacco, snuff, or cigars.

And this deponent now claims that, by reason of the aforesaid assessment of the said sum of thirty dollars, they are justly entitled to have seventeen & $\frac{50}{100}$ dollars remitted, and they now ask and demand the same.

T. L. SCHUMPERT.

Sworn and subscribed before me this 31st day of July, A. D. 1878.

W. M. CUNNINGHAM, *Clerk*,
By W. W. STONE, *D. C.*

92 *Collector's oath.*

I, E. P. Hatch, collector 3rd district, being duly sworn according to law, depose and say that I have personally investigated the facts set forth in the within affidavit, and from the best information I can obtain, after careful inquiry, I believe the statements therein made to be in all respects just and true.

E. P. HATCH.

Sworn and subscribed before me this 13th day of October, A. D. 1873.

R. B. STONE,
Deputy Collector, *3rd Dist. Miss.*

$35. $17.50, (47.) Claim for remission of taxes uncollected. Affidavit of T. L. Schumpert for T. L. & H. Schumpert in support of claim No. in schedule No. from Jan'y alp'abetical list, for 1871, in the 3rd district of Mississippi, allow 11.67, reject 5.83, 17.50. Ingram, B.

93 *Schedule of claims for abatement of taxes alleged to have been erroneously assessed in the third collection district of Mississippi, reported in the several specified lists for 1870 & '71, for which credit is requested, the claims being presented in accordance with the regulations of the Commissioner of Internal Revenue, by E. P. Hatch, collector.*

No. of claim.	No of affidavit.	Name.	Address.	Article or occupation.	Page and line on assessor's list.	Date when tax was returned for collection.	Date when tax was returned for collection.	Name of collector who receipted for the tax.	Reason for abatement.	Amount claimed.	Amount abated as erroneous.	Amount rejected.
*	*	* *	*	*	*	* *	*	B. B. Emory.	* *	* *	*	
†4	3	Schumpert, T. L. & H..	Shannon....	Ret. liq. d'l'rs.	10, 30	January list, 1871, 10, 30	Fe21, 21, '71.	"	Did no business for 7 mos. of the time.	14 58	....	......
5	3	" " " ..	"	" tobacco " .	10, 31	10, 31	" " .	" " " .	" " " " " .	2 92	11 67	5 83
										17 50	11 67	5 83
										87 50	81 67	5 83

† $5.83 rejected for 7 mos., as retail dealer.

Collector's certificate.

UNITED STATES COLLECTOR'S OFFICE,
THIRD DISTRICT OF MISSISSIPPI,
Holly Springs, Feb'y 20th, 1875.

I hereby certify that I have carefully investigated the facts set forth in the several affidavits accompanying this schedule, and am satisfied that, with the exception of Nos. , they are in all respects just and true, and I further certify, from personal examination, that all the names and *and* taxes enumerated within are found on the pages and lines as indicated in the respective lists now on file in my office; and that each of the said several taxes is included in my aggregate receipt for the list to which it belongs, as reported to the Office of Internal Revenue; and I further certify that no credit has heretofore been allowed in any form on account of any of the taxes within enumerated, and that none of them have been collected and reported in any monthly abstract, and that the credit of such of the taxes herein named as may be abated by the Commissioner of Internal Revenue should be given to

B. B. EMORY,
Collector, 3rd District Mississippi.

OFFICE OF INTERNAL REVENUE,
Washington, D. C., May 20th, 1875.

I hereby certify that, from a present personal examination, I find all the taxes for which credit is claimed in the within schedule, with the exception of Nos. , on the specified pages and lines of the lists on file in this office; and I further certify that each of the said taxes is included in the collector's aggregate receipt for the list to which it belongs, as transmitted to the Office of Internal Revenue.

JEROME A. JOHNSON, *Clerk.*

Schedule No. 32. Order No. 8753. Amount claimed, 87.50; amount rejected, 5.83; amount allowed, 81.67. Application for abatement of taxes alleged to have been erroneously assessed and standing charged against B. B. Emory, late collector of 3rd district of Miss. Abated to the amount of eighty-one dollars and sixty-seven cents ($18.67.) Examined and allowed by Breckinridge. , Feb. 24th, 1875. W. H. J.

D. D. PRATT,
Commissioner of Internal Revenue.

94 I hereby certify that in making income return it was my habit to return amount of bills rendered, and afterwards deduct insolvent amounts from subsequent returns, and that at least $1,500.00 of the amount returned for 1869 were insolvent credits, & that I was not in receipt for that year of over $1,000 net income.

J. A. GREEN.

Sworn and subscribed before me this 3d day of August, 1875.

E. W. HALL,
Deputy Coll.

95 *Detailed statement of income, gains, and profits of J. A. Green, of Tupelo, county of Lee and State of Mississippi, during the year* 1869.

1. Gross profits of any trade, business, or vocation from which income is actually derived or any interest therein, wherever carried on	2,500 00
Gross income	2,500 00

DEDUCTIONS.

1. Exempt by law	$2,000	
3. National, State, and municipal taxes paid within the year	70 00	
Taxable income		1,430 00
Amount of tax at 5 per cent		7,150 00

Assessors should require answers to be written opposite each of these questions:

Had your wife any income last year? No.

Did any minor child of yours earn any wages or salary last year; and, if so, did you receive such wages or salary? No.

Have you included in this return the income of your wife and salary or wages of minor children received? Have none.

Have you any stocks, and what are they? None.

Have you bought or sold stocks or other property? No.

Have you any United States securities? No.

Have you given or transferred to any child or children of yours, or to
any other person or person, the income, gains, or profits, or any
96 pa't of the income, gains, or profits, arising during the year 1871
from stocks, bonds, or other securities, or from any other source
whatever? No.

Is such income included in the foregoing return? None.

Have you transferred any stocks, bonds, or other securities, or any other property, or the interest of any other gains or profits arising therefrom, during the year 1871, for the purpose of diminishing your own taxable income; and, if so, when and to whom? No.

Have you kept any book account? Yes.

Is your income estimated, or taken from your books? Estimated.

Have any of the deductions claimed in your return already been taken out of the amount reported as profits? No.

Did you estimate any portion of your profits in making your return for previous years? No.

Was any portion treated as worthless, and, if since paid, have you included it in this return? No.

Was any portion of the amount returned by you under item 6 received by you as a depositor in any savings bank or provident institution, and how much?

STATE OF MISSISSIPPI,
County of Lee, ss:

J. A. Green, being sworn according to law, deposes and says that the foregoing, statement contains a full, true, particular, and correct account of his income for the year A. D. 1871, which he has received, whether derived from any kind of property, rents, interest, dividends, undivided profits, wages, or salary, or from any profession, trade, employment, or vocation, or from any other source whatever, from the first day of January, to the thirty day of December, A. D. 1871, both days
97 inclusive, and subject to an income tax under the excise laws of
the United States; and that he has not received, and is not entitled to receive, from any or all sources of income together, any other sum for the said year besides what is herein set forth in detail, except

such amounts as though justly due to the affiant are not good and collectible; and that he is honestly and truly entitled to make the deductions from his income for said year, as specifically stated in detail, in accordance with the true intent of the excise laws of the United States; that the several rates and amounts therein contained are stated in legal-tender currency, and that the written answers to the above questions are true.

J. A. GREEN.

Sworn and subscribed this 1st day of April, A. D. 1870, before me.

E. C. JAQUITH,
Assistant Assessor, 9th Division,
3rd District of the State of Miss.

98 *Detailed statement of income, gains, and profits of J. A. Green, of Tupelo, county of Lee and State of Mississippi, during the year 1869, and of carriages, &c., &c., owned or kept by him March 1st, 1870.*

1	From in any trade, business, or vocation, from which income is actually derived, or any interest therein, wherever carried on.		1,000 00
	Gross income		1,000 00
1	Exempt by law	1,000 00	
	Taxable income		
	Amount of tax at 5 per cent		

Carriages, gold watches, billiard tables, gold and silver plate. Schedule A.—Section 100, act June 30, 1864, as amended July 13th, 1866.

No.	Taxable articles.	Rate.	Amount of tax.
None.	Carriage, pheaton, carryall, rockaway, or other like carriage, and any coach, hackney coach, omnibus, or four-wheeled carriage, the body of which rests upon springs, of any description, which is kept for use, for hire, or for passengers, and which is not used exclusively in husbandry, or in the transportation of merchandise, valued at exceeding three hundred dollars, and not exceeding five hundred dollars, including harness used therewith.	$6 00	
None.	Carriages of like description valued at above five hundred dollars..	10 00	
"	Gold watches, composed wholly or in part of gold or gilt kept for use, valued at one hundred dollars or less.	1 00	
None.	Gold watches, composed wholly or in part of gold or gilt kept for use, valued at above one hundred dollars.	2 00	
None.	Billiard tables kept for use, and not subject to special tax	10 00	
None.	Oz. plate of gold kept for use, per ounce Troy	50	
None.	Oz. of silver kept for use, per ounce Troy, exceeding 40 ounces, used by one family.	05	

Assessors should require answers to be written opposite each of these questions:

Had your wife any income last year? No.

Did any minor child of yours receive any salary last year? No.

Have you included in this return the income of your wife and salary received by minor children? Had none.

Have you any stocks, and what are they? No.

Have you bought or sold stocks or other property? No.

Have you any United States securities? No.

Have you given or transferred to any child or children of yours, or to any other person or persons, the income, gains, or profits or any part of the income, gains, or profits, arising during the year 1869 from stocks, bonds or other securities, or from any other source whatever? No.

Is such income included in the foregoing return? Yes.

Have you transferred any stocks, bonds, or other securities, or any other property, or the interest or other gains or profits arising therefrom, during the year 1869, for the purpose of diminishing your own taxable income; and, if so, when and to whom? No.

Have you kept any book account? Yes.

Is your income estimated, or taken from your books? Estimated.

Have any of the deductions claimed in your return already been taken out of the amount reported as profits? No.

Did you estimate any portion of your profits in making your return for previous years? No.

Was any portion treated as worthless, and, if since paid, have you included in this return? No.

STATE OF ,
County of , *ss:*

, being duly sworn according to law, deposes and says that the foregoing statement contains a full, true, particular, and correct account of his income for the year A. D. 1869, which he has received, whether derived from any kind of property, rents, interest, dividends, or salary, or from any profession, trade, employment, or vocation, or from any other source whatever, from the first day of January to the thirty-first day of December, A. D. 1869, both days inclusive, and subject to an income tax under the excise laws of the United States; and that he has not received from any or all sources of income together any other sum for the said year, besides what is herein set forth in detail, except such amounts as, though justly due to the affiant, are not good and collectible; and that he is honestly and truly entitled to make the deductions from his income for said year, as specifically stated in detail, in accordance with the true intent of the excise laws of the United States; that the statement of the number or weight and value of the articles enumerated in S'hedule A, owned, possessed, or kept by him, or of which he had the care or management, on the first day of March, A. D. 1870, is also just and true; that the several rates and amounts therein contained are stated in legal-tender currency, and that the written answers to the above questions are true.

J. A. GREEN.

Sworn and subscribed this 2d day of Aug., A. D. 1873, before me.

W. H. DODSON, [SEAL.]
U. S. Commissioner.

99 (47.)

Claim under circular No. 21 for remission of taxes improperly assessed.

STATE OF MISSISSIPPI,
County of Lee, ss:

J. A. Green, of the town of Tupelo, and State and county aforesaid, being duly sworn according to law, deposes and says that he was engaged in the business of practicing law; that upon the 28th day of March, A. D. 1870, he was assessed by E. C. Jaquith, ass't assessor of the 3rd district of said State, an internal revenue tax of seventy-one $\frac{50}{100}$ dollars as income for professional services as attorney, which assessment of the aforesaid tax was, as this deponent verily believes, erroneous and improper, for the following reasons, viz:

That at the time of the assessment deponent was under the impression that he was required by the revenue law to render a full account of all claims he holds or held for professional services, not limiting it to the amount actually received and solvent. Deponent says that at the time of the assessment one thousand dollars would cover the amount of income realized and solvent at the date of assessment; and this deponent now claims that by reason of the aforesaid assessment of the said sum of seventy-one $\frac{50}{100}$ dollars, he is justly entitled to have the same remitted, and he now asks and demands the same.

J. A. GREEN.

Sworn and subscribed before me this 6th day of July, A. D. 1870.

E. C. JAQUITH,
Ass't Ass'r.

100 *Assistant assessor's oath.*

I, E. C. Jaquith, assistant assessor 9th division, 3rd district, being duly sworn according to law, depose and say that I have personally investigated the facts set forth in the within affidavit, and from the best information I can obtain, after careful inquiry, I believe the statements therein made to be in all respects just and true.

E. C. JAQUITH,
Ass't Ass'r.

Sworn and subscribed before me this 7th day of July, A. D. 1870.

To JOHN PICKENS,
Clerk of the Circuit Court, Lee Co., State of Miss.

No. 3.

$71.51] 47. [Sched. 31.

Claim for remission of taxes uncollected. Affidavit of J. A. Green, Tupelo, Miss., in support of claim No. 3, in Schedule No. , from am't alphabetical list for 1870, in the 3rd district of Mississippi.

Reject.

INGRAM.
B.

Assessor's certificate.

I hereby certify that, upon careful examination, I find the within named assessments appear upon the lists in this office, as follows:

Name.	Article or occupation.	List.	Form.	Page.	Line.	Amount.
Green, J. A	Income	Annual, 1870.	97	59	15	71 50

A. A. SHATTUCK,
Assessor, 3rd District of Mississippi.

OKOLONA, *Feb'y 10th*, 1873.

101 *Schedule of claims for abatement of taxes alleged to have been erroneously assessed in the third collection district of Mississippi, reported in the several specified lists for 1869, '70, & '71, for which credit is requested on behalf of B. B. Emory, late collector, the claims being presented in accordance with the regulations of the Commissioner of Internal Revenue, by E. P. Hatch, collector.*

No. of claim.	No. of affidavit.	Name.	Address.	Article or occupation.	Page and line on assessor's list.	Page and line on list in collector's office.	Date when tax was returned for collection.	Name of collector who receipted for the tax.	Reason for abatement.	Amount claimed.	Amount abated as erroneous.	Amount rejected.
*	*	*	*	*	*	*		B. B. Emory.	*	*	*	*
B. 3	3	Green, J. A	Tupelo.	Income.	Annual list, 1870. 59, 15	59, 15	....	"	Had no income over $1,000.00. R.	71 50	......	71 50
*	*	*	*	*	*	*		"	*	*	*	

B. No cause for abatement.

Collector's certificate.

UNITED STATES COLLECTOR'S OFFICE,
THIRD DISTRICT OF MISSISSIPPI,
Holly Springs, Dec. 24th, 1874.

I hereby certify that I have carefully investigated the facts set forth in the several affidavits accompanying this schedule, and am satisfied that, with the exception of Nos. , they are, in all respects, just and true. And I further certify, from personal examination, that all the names and taxes enumerated within, are found on the pages and lines as indicated in the respective lists now on file in my office, and that each of the said several taxes is included in my aggregate receipt for the list to which it belongs as reported to the Office of Internal Revenue; and I further certify that no credit has heretofore been allowed in any form on account of any of the taxes within enumerated, and that none of them have been collected and reported in any monthly abstract, and that the credit for such of the taxes herein named as may be abated by the Commissioner of Internal Revenue should be given to B. B. Emory, late collector.

E. P. HATCH,
Collector, Third District, Miss.

OFFICE OF INTERNAL REVENUE,
Washington, D. C., Jan'y 10th, 1876.

I hereby certify that, from a present personal examination, I find all the taxes for which credit is claimed in the within schedule, with the exception of Nos. , on specified pages and lines of the lists on file in this office; and I further certify that each of the said taxes is included in the collector's aggregate receipt for the list to which it belongs, as transmitted to the Office of Internal Revenue.

SAM'L A. LEWIS,
Clerk in Charge of Assessors' Lists.

26.] Order No. 9254+. Schedule No. 31.

Amount claimed	$768 95
Amount rejected	$169 50
Amount allowed	$599 45

Application for abatement of taxes alleged to have been erroneously assessed and standing charged against B. B. Emory, late collector of 3rd district of Miss.

Abated to the amount of five hundred & ninety-nine dollars and forty-five cents ($599.45).

D. D. PRATT,
Commissioner of Internal Revenue.

Examined and allowed by Breckenridge.
Dec. 29, 1875. W. N. J. Jan. 5th, 1875. S. A. L.

102 UNITED STATES INTERNAL REVENUE
COLLECTOR'S OFFICE, 2ND DISTRICT, MISS.,
Okolona, Jan. 15th, 1876.

Ans. to interrogatory 1st. The tax was assessed against Mrs. Belsher, as a successor.

Int. 2nd. The land was deeded to her by her children some time in

1869, but she already had a life estate in it, and the children deeded it to her so it could be sold.

Int. 3rd. She died June 5th, 1871.

" 4. No tax accrued at her death, the law having been repealed.

Int. 5. None of children were minors at her death, but she had two grandchildren, Robert and Samuel, sons of Berrien Belsher, dec'd, who were minors.

Int. 6. The land has never been sold, but is in the hands of A. T. Gray, administrator of the estate of Mrs. Belsher.

A. A. SHATTUCK,
Collector.

UNITED STATES INTERNAL REVENUE
COLLECTOR'S OFFICE, DIST. MISS.

I have investigated this case and am satisfied that the estate was worth but one hundred dollars, and that no subsequent taxes have been assessed paid.

A. A. SHATTTCK,
Collector.

103 *Certificate of clerk to magistrate.*

STATE OF MISSISSIPPI,
Prentiss County Chancery Court:

I, P. W. Nash, clerk of the chancery court of said county, do hereby certify that James Junken, whose genuine signature appears to the annexed and foregoing certificate, is now and was at the date of said certificate an acting justice of the peace in and for said county, duly elected and qualified according to law, that full faith and credit are due to all his official acts as such, and that his said certificate is in due form of law.

In witness whereof I have hereunto set my hand and affixed the seal of said court, at my office, in the town of Booneville, this 10th day of August, 1874.

[SEAL.] P. W. NASH, *Clerk.*

104 (47—revised July 30, 1874.)

Claim under series 6, No. 14, for remission of taxes improperly assessed.

STATE OF MISSISSIPPI,
County of Lee, ss:

P. M. Savery, of the city of Baldwyn and State and county aforesaid, being duly sworn according to law, deposes and says that he is the attorney for A. T. Grey, adm'r of estate of Eliza H. Belsher, dec'd; that upon the day of November, A. D. 1869, Eliza H. Belsher was assessed by A. A. Shattuck, assistant assessor of the 3rd dist. of said State, an internal revenue tax of ten ($10) dollars upon succession, which assessment of the aforesaid tax was, as this deponent verily believes, erroneous and improper, for the following reasons, viz:

That Eliza H. Belsher had but a lifetime interest in the land in question; that the land was deeded to her by her children so that it might be sold. The full value of her interest did not exceed one hundred dollars; that she at no time or times during her lifetime realized or received, directly or indirectly, a larger amount in money, or otherwise, than the said sum of one hundred dollars, or thereabouts, and at her death it became the property of those children who had deeded the same to her, save and except the minor heirs of Troop Belsher, who were thus by decedent's death, entitled to receive a $\frac{2}{11}$ interest in the said estate; and this deponent now   that by reason of the aforesaid assessment of the said sum of ten $\frac{00}{100}$ dollars, the heirs of Eliza Belsher are justly entitled to have ten ($10) dollars remitted, and he now asks and demands the same.

P. M. SAVERY.

105 Sworn and subscribed before me this 5th day of August, A. D. 1874.

JAMES JUNKEN, [SEAL.]
J. P., Prentiss County, Miss.

Collector's oath.

I, E. P. Hatch, collector third district, being duly sworn according to law, depose and say that I have personally investigated the facts set forth in the within affidavit, and from the best information I can obtain, after careful inquiry, I believe the statements therein made to be, in all respects, just and true.

E. P. HATCH, *Collector.*

Sworn and subscribed before me this 6th day of August, A. D. 1874.

JAMES B. SMITH,
Deputy Collector.

Certificate of assessments.

I hereby certify that, upon careful examination, I find the within named assessments appear upon the lists in this office, as follows:

Name.	Article or occupation.	List.	Form.	Page.	Line.	Amount.
Mrs. Belsher, Baldwyn....................	Succession, $1,000 00....	Nov., '69 E. H. B.	23	12	2	10 00

$10.00.] (47.)

Claim for remission of taxes uncollected.

Affidavit of P. M. Savery, att'y for A. T. Grey, adm'r estate Eliza H. Belsher, dec'd, in support of claim No. 1, in Schedule No.   , from Nov. alphabetical list for 1869, in the 3rd district of Miss. Examined and   , 187 , by   ; rejected $9.00; allow $1.00.

BRECKENRIDGE.

48½ (*a.*)

Schedule of claims for abatement of taxes alleged to have been erroneously assessed in the 2d (old 3d) collection district of Mississippi, reported in the several specified lists for 1869-'70, for which credit is requested, the claims being presented, in accordance with the regulations of the Commissioner of Internal Revenue, by A. P. Shattuck, collector.

No. of claim.	No. of affidavit.	Name.	Address.	Article or occupation.	Page and line on assessor's list.	Page and line on list in collector's office.	Date when tax was returned for collection.	Name of collector who receipted for the tax.	Reason for abatement.	Amount claimed.	Amount abated as erroneous.	Amount rejected.
B. 1	1	P. M. Savery, for estate of Elizabeth Belsher.	Baldwyn..	Succession ..	11, 2	12, 2	November list, 1869.	B. B. Emory.	No succession *a*...	10 00	1 00	9 00
*	*	* *	*	*	*	*		"	*	*	*	
										49 50	38 50	11 00

B. N[illegible]ause for abatement of balance.

Collector's certificate.

UNITED STATES COLLECTOR'S OFFICE,
SECOND DISTRICT OF MISSISSIPPI,
Okolona, Jan'y 17, 1876.

I hereby certify that I have carefully investigated the facts set forth in the several affidavits accompanying this schedule, and am satisfied that, with the exception of Nos.   , they are in all respects just and true. And I further certify from personal examination that all the names and taxes enumerated within are found on the pages and lines as indicated in the respective lists now on file in my office; and that each of the said several taxes is included in my aggregate receipt for the list to which it belongs, as reported to the Office of Internal Revenue; and I further certify that no credit has heretofore been allowed in any form on account of any of the taxes within enumerated, and that none of them have been collected and reported in any monthly abstract, and that the credit for each of the taxes herein named as may be abated by the Commissioner of Internal Revenue should be given to B. B. Emory.

A. P. SHATTUCK,
Collector, Second District, Mississippi.

OFFICE OF INTERNAL REVENUE,
Washington, D. C., Aug. 21, 1876.

I hereby certify that from a present personal examination I find all the taxes for which credit is claimed in the within schedule, with the exception of Nos.   , on the specified pages and lines of the lists on file in this office; and I further certify that each of the said taxes is included in the collector's aggregate receipt for the list to which it belongs, as transmitted to the Office of Internal Revenue.

A. W. GANNETT,
Clerk in charge of Assessor's Lists.

Order No. 9668†. Schedule No. 34.

Amount claimed	$49 50
Amount rejected	$11 00
Amount allowed	$38 50

Application for abatement of taxes alledged to have been erroneously assessed, and standing charged against B. B. Emory, late collector of late 3d district of Mississippi. Abated to the amount of thirty-eight dollars and fifty cents ($38.50).

H. C. ROGERS,
Acting Commissioner of Internal Revenue.

Examined and allowed by Breckenridge.

107 Form No. 53, revised May 4, 1874.

Schedule of taxes reported on the several specified lists for 1869, '70, *&* '71, *returned by Julius Junkerman, deputy collector of the first division of the second district of Mississippi, as uncollectible, to R. C. Powers, collector of said district.*

No. of claim.	Name of parties assessed.	Article or occupation.	Amount of claim.	Date of first demand.	Date from which the tax was found to be uncollectible.	Cause of inability to collect.
*	* *	*	* *		* *	* * *
115	Carter, C. M.....	Livery stable	10 00	July, 1870. Paid		
*	* *	*	* *		* *	* * *

I, Julius Junkerman, deputy collector of internal revenue for division No. 1, in collection district No. two, in the State of Mississippi, hereby certify that the within taxes or duties charged to and assessed against the several persons named in the lists within specified, for 1869, '70, & '71, amounting in the aggregate to $\frac{}{100}$ dollars, have not been collected, and that I demanded payment, as far as the persons could be found, of said taxes and duties of the within-mentioned persons. And that I have been unable to collect said taxes and duties, or any portion thereof, for the reason set forth in my schedule herein enclosed. And I further certify that neither of the parties against whom the taxes herein claimed for abatement were assessed, had any property liable to distraint for the said taxes on the 2' of June, 1877, or at the receipt of the list or since; that I made diligent efforts to collect the said taxes and duties, and that the failure to collect the same did not arise out of or through any omission or neglect of duty on my part.

JULIUS JUNKERMAN,
Deputy Collector.

Sworn and subscribed to this 3' day of September, 1877, before me, R. C. Powers, collector.

R. C. POWERS, *Collector.*

Uncollectible taxes.

Certified return of Julius Junkerman, deputy collector of the first division, 2nd district of Miss., of the taxes found to be uncollectible on the lists.

Allowed in part.

INGRAM.

108 *Schedule of taxes reported on the several specified lists for* 187 , *returned by* , *deputy collector of the* *division of the* *district of* , *as uncollectible to* , *collector of said district.*

No. of claim.	Names of parties assessed.	Article or occupation.	Amount of claim.	Date of first demand.	Date from which the tax was found to be uncollectible.	Cause of inability to collect.
		August 1870.		Upon the receipt of the list.	As soon after the receipt of the list as the legal demand could be made.	No property liable to distraint.
*	* *	*	*			" " " " "
135	Frank, Martha........	Succession, Holly Spr	172 92			" " " " "
136	Frank, Jos. & Rebecca.	" " "	3 12			" " " " "
*	* *	*	*			" " " " "

I, R. C. Powers, collector of internal revenue for division No. , in collection district No. two, in the State of Mississippi, hereby certify that the within taxes or duties charged to and assessed against the several persons in the lists within specified for 1870 & '71, amounting in the aggregate to $\frac{\quad}{100}$ dollars, have not been collected, and that I demanded payment of said taxes and duties, as far as they could be found, of the within-named persons, on the receipt of the list, and that I have been unable to collect said taxes and duties, or any portion thereof, for the reasons set forth in my schedule herein enclosed. And I further certify that neither of the parties against whom the taxes herein claimed for abatement were assessed had any property liable to distraint for the said taxes in this district when first demand was made for the same, or since; that I made diligent efforts to collect the said taxes and duties, and that the failure to collect the same did not arise out of or through any omission or neglect of duty on my part, according to my best knowledge and belief.

R. C. POWERS, *Collector.*

Sworn and subscribed to this 3rd day of September, before me, Julius Junkerman, deputy collector.

JULIUS JUNKERMAN,
Deputy Collector.

Allowed.

INGRAM.

109 *Schedule of taxes reported on the several specified lists for 187 , returned by collector of the division of the second district of Mississippi as uncollectible, to R. C. Powers, collector of said district.*

No. of claim.	Names of parties assessed.	Article or occupation.	Amount of claim.	Date of first demand.	Date from which the tax was found to be uncollectible.	Cause of inabilty to collect.
*	*	*	* *	* *	* *	* * *
164	Jones, G. M. & W. P........	Succession	48 00	October list, 1870		Paid.
*	* *	*	* *		* *	* * *
				February, 1871		
*	* *	*	* *			* * *
232	Dooley, A. E. & Baker, M. J.	Succession	13 00		June, '77	No property liable to distraint.
	* *	*	* *		* *	* * *

I, R. C. Powers, collector of internal revenue for division No. 1, in collection district No. 2, in the State of Mississippi, hereby certify that the within taxes or duties charged to and assessed against the several persons named in the lists within specified for 1869, '70 & '71, amounting in the aggregate to $\frac{}{100}$ dollars have not been collected; and that I demanded payment where the persons could be found, of said taxes and duties of the within-mentioned persons on the receipt of the lists, and that I have been unable to collect said taxes and duties, or any portion thereof, for the reasons set forth in my schedule herein enclosed. And I further certify that neither of the parties against whom the taxes herein claimed for abatement were assessed had any property liable to distraint for the said taxes, at the receipt of the list or since; that I made diligent efforts to collect the said taxes and duties, and that the failure to collect the same did not arise out of or through any omission or neglect of duty on my part.

R. C. POWERS, *Collector.*

Sworn and subscribed to this 3rd day of September, 1877, before me, Julius Junkerman, deputy collector.

JULIUS JUNKERMAN,
Deputy Collector.

Allowed in part.

INGRAM.

110 No. of claim.	No. of affidavit.	Name.	Address.	Article or occupation.	Page and line on list in assessor's office.	Page and line on list in collector's office.	Date when tax was returned for collection.	Name of collector who recipted to assessor for the tax.	Reasons for abatement.	Amount claimed.	Amount abated as uncollectible.	Amount rejected.
					July list, 1870.							
*	*	*	*	*	*	*				*		
115	P...	Carter, C. M.	Aberdeen	Livery stable	9, 5	9, 5	......	......	Left ..	10 00	......	10 00
*	......	*	*	*	*	*			"	*		
									*			
					August list, 1870.							
*	......	*	*	*	7	*			*	*		
135	P...	Frank, Martha	Holly Springs	Succession	" 13	15, 12	......	......	Left ..	172 92	......	172 92
136	P...	Frank, Jos. & Rebecca	" "	"	15, 13	15, 13	......	......	"	3 12	......	3 12
*	......	*	*	*	*	*			*			
					October list, 1870.							
*	......	*	*	*	*	*			Left ..	*		
164	P...	Jones, G. M. & W. P	Carson's Landing	Succession	13, 26	13, 26	......	......	"	48 00	......	48 00
*	......	*	*	*	*	*			"	*		
					February list, 1871.							
*	......	*	*	*	*	*			Left ..	*		
232	P...	Dooley, A. E., & Baker, M. J	Hernando	Succession	12, 8	12, 8	......	......	"	13 00	......	13 00
*	......	*	*	*	*	*			"	*		

P. Paid.

111 *Collector's Certificate.*

UNITED STATES COLLECTOR'S OFFICE,
THIRD DISTRICT OF MISSISSIPPI,
Holly Springs, Dec. 29th, 1874.

I hereby certify that I have carefully investigated the facts set forth in this schedule concerning the taxes enumerated therein, and am satisfied that the claims, with the exception of Nos. 130 x 131, are in all respects just and true; and I further certify from personal examination that all the names and taxes enumerated within are found on the pages and lines as indicated in the respective lists now on file in my office, and that each of the said several taxes is included in B. B. Emory's aggregate receipt for the list to which it belongs as reported to the Office of Internal Revenue. And I further certify that no credit has been allowed in any form on account of any of the taxes within enumerated, and that none of them have been collected and reported in any monthly abstract; that the statements made within are true and correct, and that the credit for such of the taxes herein named as may be abated by the Commissioner of Internal Revenue should be given to B. B. Emory, late collector.

E. P. HATCH,
Collector, 3d District, Miss.

112 OFFICE OF INTERNAL REVENUE,
Washington, D. C., Nov'r 13th, 1877.

I hereby certify that from a present personal examination I find all the taxes for which credit is claimed in *in* the within schedule, with the exception of Nos. , on the specified pages and lines of the lists on file in this office. And I further certify that each of the said taxes is included in the collector's aggregate receipt for the list to which it belongs, as transmitted to the Office of Internal Revenue.

JEROME A. JOHNSON, *Clerk.*

Order No. 11524, Feb'y 12, '79. Schedule No. 5.

Amount claimed	$3,402 73
Amount rejected	$337 22
Amount allowed	$3,065 51

Application for abatement of taxes alleged to be uncollectible and standing charged against B. B. Emory, late collector of 3d district of Miss.

Abated to the amount of three thousand and sixty-five dollars and fifty-one cents.
$3,065.51.]

GREEN B. RAUM,
Commissioner of Internal Revenue.

Examined and allowed by—

INGRAM.

Filed May 20th, 1879. G. R. Hill, clerk.

113 And afterwards, to wit, at the June term, 1879, of said court, on the 11' day of June, the same being a day of said term, a bill of exceptions was filed in said cause, which is in the words and figures following, to wit:

Bill of exceptions.

THE UNITED STATES OF AMERICA,
Northern District of Mississippi:

District court of the United States, June term, 1879, sitting at Oxford.

THE UNITED STATES, PLAINTIFF,
vs. } 737.
B. B. EMORY ET AL., DEFENDANTS.

Be it remembered that on the trial of the above-entitled case, on the tenth day of June, 1879, the same being a regular day of the term of the court aforesaid, the said plaintiff offered to read to the jury certain transcripts from the books of the Treasury Department at Washington City, and certified transcripts of papers on file in said department, touching the official conduct of B. B. Emory as late internal revenue collector for the third district of Mississippi, which said transcripts are dated respectively , , , as shown by the certificates of the Secretary of the Treasury. And to these transcripts the defendants had filed written exceptions, and objected to their introduction as evidence, for the reason assigned in said exceptions. And after hearing the argument of counsel the court overruled the objection and exceptions of said defendants, and permitted the said transcript to be read to the jury, subject to the charge of the court to be given
114 to the jury after the evidence had been closed; and to this ruling
of the court in permitting said transcripts to be read to the jury, overruling the exceptions and objection of the defendants to the same, the defendants then and there at the time excepted and tendered this their bill of exceptions, which was signed, sealed, and ordered to be made a part of the record in said case.

R. A. HILL, *Judge.* [SEAL.]

Filed June 11th, 1879. G. R. Hill, clerk.

And also on the same day, to wit, the 11th day of June, 1879, another bill of exceptions was filed, which is in the words and figures following, to wit:

Bill of exceptions.

UNITED STATES OF AMERICA,
Northern District of Mississippi:

In the circuit court, June term, 1879.

Be it remembered that on this the 10th day of June, 1879, it being a day of said term of the court, came on to be tried, and was tried, the case of The United States vs. B. B. Emory et als. And when the plaintiffs had introduced all their evidence the defendants offered in evidence the following bond, to wit:

115 W. F. W. F.] [S.

UNITED STATES OF AMERICA:

TREASURY DEPARTMENT, *January 5th*, 1872.

Pursuant to the act of Congress of the 22d February, 1849, I hereby certify that the annexed is a true copy of an original official bond of Benjamin B. Emory, late collector of internal revenue for the 3rd collection district of Mississippi, dated October 11th, 1869, on file in this department.

In witness whereof I have hereunto set my hand and caused the seal of the Treasury Department to be affixed on the day and year first above written.

[SEAL.] J. F. HARTLEY,
Acting Secretary of the Treasury.

116 *Bond.*

Know all men by these presents that we, Benjamin B. Emory, Isaac N. Morris, Edward Owen, D. Willard Bliss, Oliver O. Howard, and Robert C. Hewett, all of the city of Washington, District of Columbia, are held and firmly bound unto the United States of America in the full and just sum of fifty thousand dollars, money of the United States, to which payment, well and truly *and truly* to be made, we bind ourselves, jointly and severally, our joint and several heirs, executors, and administrators, firmly by these presents. Sealed with our seals, and dated this eleventh day of October, in the year one thousand eight hundred and sixty-nine.

The condition of the foregoing obligation is such that, whereas the President of the United States hath, pursuant to law, appointed the said Benjamin B. Emory collector of internal revenue for the third district of Mississippi, under an act entitled "An act to provide internal revenue to support the government, to pay interest on the public debt, and for other purposes," and in due form of law caused to be issued to him as such a commission, bearing date the second day of October, anno Domini one thousand eight hundred and sixty-nine: Now, therefore, if the said Benjamin B. Emory shall truly and faithfully execute and discharge all the duties of the said office *office* according to law, and shall justly and faithfully account for and pay over to the United States, in
compliance with the orders and regulations of the Secretary of
117 the Treasury, all public moneys which may come into his hands
or possession, and if each and every deputy collector appointed by said collector shall truly and faithfully execute and discharge all the duties of such deputy collector according to law, then the above obligation to be void and of no effect; otherwise it shall abide and remain in full force and virtue.

[$1 stamp.]

BENJAMIN B. EMORY. [SEAL.]
ISAAC N. MORRIS. [SEAL.]
EDWARD OWEN. [SEAL.]
D. WILLARD BLISS. [SEAL.]
O. O. HOWARD. [SEAL.]
ROBERT C. HEWETT. [SEAL.]

Sealed and delivered in the presence of—
RICHARD MCALLISTER.
G. A. HENDERSON.

I, Benjamin B. Emory, having been appointed to the office of collector of internal revenue for the third district of the State of Mississippi, do solemnly swear that I have never voluntarily born' arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, or attempted to exercise the functions of any office whatever, under any authority, or pretended authority, in hostility to the United States; that I have not yielded a voluntary to any pretended government, authority, power, or constitution 118 within the United States hostile or inimical thereto. And I do further swear that to the best of my knowledge and ability I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

[5c. stamp.]

[SEAL.] BENJAMIN B. EMORY.

Sworn and subscribed this eleventh day of October, 1869, before me. Witness my hand and seal.

N. CALLAN, [SEAL.]
Not'y Public.

UNITED STATES OF AMERICA,
District of Columbia, ss:

I, Abraham B. Olin, justice, &c., hereby certify that the sureties within named, and who have signed the foregoing bond, are responsible and sufficient to insure the payment of the entire penalty named therein. Witness my hand and seal this eleventh day of October, 1869.

A. B. OLIN,
Associate Justice Sup. Court, Dist. Columbia.

119 TREASURY DEPARTMENT,
SOLICITOR'S OFFICE, *October 12th*, 1869.

I have examined the within bond and find it to be executed in proper form, and I approve the sureties thereto as sufficient.

E. C. BARNFIELD,
Solicitor of the Treasury.

DISTRICT OF COLUMBIA,
Washington County:

I, Edward Owen, of the city of Washington, D. C., do solemnly swear that I am worth ten thousand dollars over and above all my debts and liabilities.

[5c. stamp.]

EDWARD OWENS.

Sworn and subscribed before me this 11th day of October, A. D. 1869.

N. CALLAN, [SEAL.]
Notary Public.

DISTRICT OF COLUMBIA,
Washington County:

I, D. Willard Bliss, of the city of Washington, do solemnly swear that I am worth ten thousand dollars over and above all my debts and liabilities.

[5c. stamp.]

D. WILLARD BLISS.

Sworn and subscribed before me this eleventh day of October, A. D. 1869.

N. CALLAN, [SEAL.]
Not'y Public.

120 DISTRICT OF COLUMBIA,
Washington County :

I, Oliver O. Howard, of the city of Washington, do solemnly swear that I am worth ten thousand dollars over and above all my debts & liabilities.
[5c. stamp.]

OLIVER O. HOWARD.

Sworn and subscribed before me this 11th day of October, A. D. 1869.

N. CALLAN, [SEAL.]
Not'y Public.

DISTRICT OF COLUMBIA,
County of Washington :

I, Isaac N. Morriss, solemnly swear that I am worth ten thousand dollars over and above the payment of all my debts and liabilities.

ISAAC N. MORRISS.
[5c. stamp.]

Sworn and subscribed before me this 11th day of October, A. D. 1869.

N. CALLAN, [SEAL.]
Not'y Public.

DISTRICT OF COLUMBIA,
County of Washington :

I solemnly swear that I am worth ten thousand dollars over and above the payment of all my debts and liabilities.
[5c. stamp.]

ROBERT C. HEWETT.

Sworn and subscribed before me this eleventh day of Oct., 1869.
N. CALLAN, [SEAL.]
Not'y Public.

Filed January 4th, 1876. G. R. Hill, clerk.

121 To the introduction of said bond, as evidence in cause, the attorney for the United States then and there objected, and the court overruled said objections, and permitted said bond with its endorsements to be read to the jury as evidence. The defendants then offered in evidence the following transcript from the records of the Treasury Department, showing the accounts of B. B. Emory as internal revenue collector, with said department under said bond, which are as follows, to wit:

122 TREASURY DEPARTMENT,
REGISTER'S OFFICE,
Washington, D. C., September 18th, 1875.

Pursuant to section 886 of the Revised Statutes of the United States, I, John Allison, Register of the Treasury Department, do hereby certify that the annexed copy of the report of the Fifth Auditor of the Treasury numbered 6972, as admitted and certified by the Comptroller upon the account of Benjamin B. Emory, late collector of internal revenue, for the third collection district of Mississippi, and of the statement of differences thereon, also copy of itemized summary statement of the account of said Emory, are a transcript from the books and proceedings of the Treasury.

W. B. M.
JOHN ALLISON,
Register.

Be it remembered that John Allison, esq., who certified the annexed transcript, is now, and was at the time of doing so, Register of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof, I, B. H. Bristow, Secretary of the Treasury of the United States, have hereunto subscribed my name, and caused to be affixed the seal of this department at the city of Washington, this eighteenth day of September, in the year of our Lord 1875.

[SEAL.]
B. H. BRISTOW,
Secretary of the Treasury.

123 No. 6972.] *Special 1st bond.*

TREASURY DEPARTMENT,
FIFTH AUDITOR'S OFFICE, *April 26th*, 1872.

I hereby certify that I have examined and adjusted an account between the United States and Benjamin B. Emory, late collector for the third district of Mississippi, from November 4th, 1869, to March 28th, 1870, and find him chargeable as follows:

Under bond dated October 11th, 1869:

2.	To amount of assessor's lists receipted for as per certificate of Commissioner, and receipts in Comptroller's Office, form 23½	31,676 92	
4.	" Amount collected on lists receipted for by predecessors in office.—W. W. Willis, 320.00; W. C. V. Hicks, 2,063.04	2,383 04	
6.	" Amount of tobacco and cigar stamps received per form 76.	9,115 64	
7.	" Amount of stamps for distilled spirits received per form 90.	6,350 00	
	" Amount of cash received from W. C. V. Hicks, predecessor.	537 60	
	To balance due the collector		50,063 20

I also find him entitled to credits as follows:

13.	By amount of cash deposited as per certificates herewith	19,216 00
22.	" " collected by W. C. V. Hicks, predecessor, on lists receipted for by collector	312 88
23.	" " of taxes on lists transferred to himself as collector under 2d bond	13,050 17
24.	" " of stamps transferred to himself as coll'r under 2d bond, viz: Tobacco, $8,098 88; spirits, 5,327 25	13,456 13

Warrants covering into Treasury, amount of cash deposited viz:

No. 304, 4 qr., 1969,	$4,802 12	On file with report ‡ 5117.
" 724, " "	984 70	
" 295, 1st qr. 1870,	9,510 00	
" 696, " "	4,046 28	
	19,343 10	
Deduct internal rev. stamps,	126 60	
	19,216 50	

25.	By balance due the United States transferred to himself as his own successor	4,027 52	
			50,063 20

124 As appears from accounts and vouchers herewith transmitted for the decision of the Comptroller thereon.

J. H. ELA, *Auditor.*

To the FIRST COMPTROLLER OF THE TREASURY:

$4,027.52.]

TREASURY DEPARTMENT,
COMPTROLLER'S OFFICE, *May 28th*, 1872.

I admit and certify that a balance of four thousand and twenty-seven and $\frac{52}{100}$ dollars is due to the United States as stated in the above report.

WM. HEMPHILL JONES,
Acting Comptroller.

To the REGISTER OF THE TREASURY.

125 *Statement of differences.*

Balance per account to March 31st, 1870, due to the United States		26,742 53	
" found per adjustment due to the " "		4,027 52	
Difference to collector's credit			22,715 01
Explained thus:			
1. Am't credited herein as taxes transferred to himself as coll'r under 2d bond			13,050 1
2. " " " " stamps " " " " "			13,456 1
3. " " per account as collections made on lists of predecessors		6,312 96	
" charged " adj's't " " " " " " "		2,383 04	
			3,929 92
4. " credited " " " " by predecessors on lists of Coll'r Emory		312 88	
" claimed per coll'r's acc't, collections by predecessors, on lists of Coll'r Emory		52 51	
			260 37
			30,696 59
Per contra:			
A. Am't charged per adj's't as taxes receipted for on Form 23½	$31,676 92		
" credited per coll'r's acc't " " " " " "	27,338 29		
		4,338 63	

NOTE.—The difference, $4,338.63, is am't of Sept., 1869, list, which the collector om*m*itted to credit in his account.

B. Am't claimed per collector's acc't as cash deposited	22,321 85		
" credited " adj's't " " "	19,216 50		
		3,105 35	
C. Am't charged per adj's't as cash received from predecessor		537 60	
			7,981 58
Difference as above stated			22,715 01

FORMS CHARGED HEREIN.

Form 23½.

September, 1869	$4,338 63
October, "	6,276 55
November, "	4,303 90
December, "	4,245 70
January, 1870	6,698 26
February, "	5,813 88
	31,676 92

Form 76.

Received from predecessor Willis	$7,359 24
" " " Hicks	1,606 40
" " department	150 00
	9,115 64

Form 90.

Received from predecessor Willis	$500 00
" " " Hicks	5,850 00
	6,350 00

FIFTH AUDITOR'S OFFICE, *April 26th*, 1872.

Examined and stated by—

R. B. DETRICK.

COMPTROLLER'S OFFICE, *May 28th*, 1872.

Examined and reported by—

S. C. CLARKE.

126 *Benjamin B. Emory, late collector 3rd district of Mississippi, in account with the United States, under bond of October* 11, 1869. *Term of office from November 4th,* 1869, *to March 28th,* 1870. 1*st bond.*

Dr.

1869.				
Nov.	13.	To am't of tobacco stamps received from W. W. Willis, as per receipt to N. D. Stanwood	7,354 24	
		“ “ “ tobacco stamps received from W. C. V. Hicks	1,606 40	
		spirit “ “ “ “ “ “ “	5,850 00	
		credited in his report on Form 90:		
		“ “ “ spirit stamps received from W. W. Willis, as per receipt to N. D. Stanwood	500 00	
Nov.	13.	“ “ “ taxes receipted for, Sept., 1869, Form 23½	4,338 63	
Dec.	17.	“ “ “ “ “ “ Oct., “ “ “	6,276 55	
“	27.	“ “ “ “ “ “ Nov., “ “ “	4,303 90	
1870.				
Jan'y	21.	“ “ “ “ “ “ Dec. “ “ “	4,245 70	
Feb'y	24.	“ “ “ “ “ “ Jan'y, 1870, “ “	6,698 26	
M'ch	24.	“ “ “ “ “ “ Feb'y “ “ “	5,813 88	
“	25.	“ “ “ tobacco stamps furnished him	150 00	
“	28.	“ “ “ taxes collected on May, 1869, list, which was receipted for by predecessor, W. W. Willis, as per Form 51	320 00	
“	“	“ “ “ taxes collected on lists for June, July, and August, 1869, which were receipted for by predecessor, W. C. V. Hicks, as per Form 51	2,063 04	
“	“	“ “ “ cash received from W. C. V. Hicks, as per report on Form 51, for Nov., 1869	537 60	
				50,063 20

Cr.

1869.				
Nov.	29.	By am't cash deposited 1st Nat'l Bank Memphis	4,809 12	
Dec.	4.	“ “ “ “ “ “ “ “	700 00	
“	21.	“ “ “ “ “ “ “ “	284 70	
1870.				
Feb'y	5.	“ “ “ “ “ “ “ “	210 00	
“	23.	“ “ “ “ “ “ “ “	4,500 00	
“	“	“ “ “ “ “ “ “ “	4,800 00	
M'ch	2.	“ “ “ “ “ “ “ “	1,216 46	
“	14.	“ “ “ “ “ “ “ “	717 00	
“	25.	“ “ “ “ “ “ “ “	600 00	
“	26.	“ “ “ “ “ “ “ “	1,386 22	
“	29.	“ “ of taxes on his lists collected by his predecessor, W. C. V. Hicks	312 88	
		“ “ of taxes on his lists collected by his predecessor, W. W. Willis	30 00	
		“ “ of taxes on his lists uncollected March 29th, 1870, and transferred to himself, as collector, under new bond of that date	13,020 17	
		“ “ tobacco stamps on hand unsold March 29th, 1870, and transferred to himself, as collector, under bond of that date	8,098 88	
		“ “ of spirit stamps on hand unsold March 29th, 1870, and transferred to himself, as collector, under bond of that date	5,357 25	
		Balance due the United States transferred to himself, as his own successor, under bond of March 29th, 1870	4,027 52	
				50,063 20

Filed June 4th, 1876. G. R. Hill, clerk.

127 To the introduction of which, as evidence in the case on trial, the attorney for the United States objected, and the court overruled said objections, and permitted said transcripts to be read to the jury as evidence, and to all of said rulings of the court, in overruling said objections, and in permitting said bonds and transcripts to be read to the jury as evidence, the attorney for the United States then and there instantly excepted, and here excepts, and presents this his bill of exceptions and asks that they be signed and made a part of the record, which is accordingly done this the 11th day of June, A. D. 1879.

R. A. HILL, *Judge.* [SEAL.]

Filed June 11th, 1879. G. R. Hill, clerk.

And also on the same day, June 11th, 1879, another bill of exceptions was filed in said cause, which is in the words and figures following, to wit:

Bill of exceptions.

THE UNITED STATES OF AMERICA,
Northern District of Mississippi:

In the circuit court, June term, 1879.

UNITED STATES
vs. } No. 737.
B. B. EMORY ET AL.

Be it remembered that on this the 11th day of June, 1879, it being a day of said term of the court, the jury that tried the case of the United States vs. B. B. Emory et al. and returned their verdict, and were discharged on yesterday, came into court and asked leave to correct their
verdict, they having rendered a verdict for $10,003.21, and
128 in said verdict recite that they found $9,586.21 as principal to
be due and $417.31 of said amount as interest; whereas the true amount of said interest was more than the interest so found. Whereupon the attorney of the United States moved the court to resubmit said case to said jury, for the purpose of allowing them to correct their verdict; which being heard and understood by the court is by the court overruled on the ground that the jury had been discharged from the consideration of said case on yesterday, the day before, and defendants objected to its being resubmitted to them for correcting their verdict; to which ruling of the court in overruling said motion in refusing to allow the jury to correct said verdict the attorney for the United States instantly excepted, and now excepts, and asks that his bill of exceptions may be signed and made a part of the record, June 11th, 1879.

R. A. HILL. [SEAL.]

And also on the same day (the 11th day of June, 1879) another bill of exceptions was filed in said cause, which is in the words and figures following, to wit:

Bill of exceptions.

THE UNITED STATES OF AMERICA,
Northern District of Mississippi:

District court of the United States for the northern district of Mississippi, June term, 1879, sitting at Oxford.

THE UNITED STATES, PLAINTIFF,
vs. } 737.
B. B. EMORYET AL., DEFENDANTS.

129 Be it remembered that, on the trial of the above-entitled case,
and on the 10th day of June, 1879, the same being a regular day of said court, after the testimony had closed, both for the plaintiff and defendant, and the argument of counsel had been heard, the court among other instructions gave the following: "That while it was true that the plaintiff could only recover in this case, for money actually collected by Emory, and not accounted for to the government, yet if they believed from the evidence that Emory had received the assessment rolls of the taxes imposed that was prima facia evidence that he had re-

ceived the money on them in the absence of any other or further proof on that subject." And the court omitted to charge the jury that facts not properly appearing on the books of the Treasury Department, could not be embraced in the transcripts; facts of which the department had no knowledge; and, if so embraced they did not constitute proof in this case.

To which giving of the instruction herein first-above mentioned, and the omission of the one last mentioned from the charge the defendants then and there excepted and tendered this their bill of exceptions, which was signed, sealed, and ordered to be made a part of the record in this case.

R. A. HILL, *Judge*. [SEAL.]

Filed June 11th, 1879. G. R. Hill, clerk.

130 And also on the same day, to wit, the 11th day of June, 1879, another bill of exceptions was filed in said cause, which is in the words and figures following, to wit:

Bill of exceptions.

THE UNITED STATES OF AMERICA,
Northern District of Mississippi:

In the circuit court of said district, June term, 1879.

THE UNITED STATES, PLAINTIFF,
vs.
B. B. EMORY ET AL., DEFENDANTS.

Be it remembered, that on the trial of the above-entitled case, on the tenth day of June, 1879, the same being a day of the said June term of the court aforesaid, the said plaintiff, by the district attorney, representing the said plaintiff, entered his written motion, to strike out the plea and notice therewith filed, of the said defendants, filed on the 8th day of June, 1876, and which said motion, and plea, and notice therewith filed, are in the words and figures following, to wit:

THE UNITED STATES OF AMERICA:

District court of the United States for the northern district of Mississippi. June term, 1876.

THE UNITED STATES, PLAINTIFF,
vs.
B. B. EMORY, WILLIAM M. COMPTON, William McAlexander, Sanford W. Whiting, & John M. Stone, defendants.

And the said defendants William M. Compton, William McAlexander, and John M. Stone, by attorney, come and defend the wrong & injury, where, &c., & say, that they do not owe the said sum of money in
131 the plaintiff's declaration above demanded, or any part thereof in manner and form as the said has above-thereof complained against them of this they put themselves upon the country, &c.

FEATHERSTON, HARRIS & WATSON,
Att'ys for Compton, Stone, & McAlexander.

Notice of matter to be given in evidence under the above plea.

1. Defendants will show under the above plea, that nothing is due from them or from B. B. Emory, late internal revenue collector, to the the United States, and the United States are really indebted to said Emory.

2. That no monthly reports of said Emory's defalcations, if any ever existed, were made to the department at Washington City, as the law required, whereby his sureties were released.

That no writ of seizure was issued to the marshal, & the property of said Emory was not seized & sold in satisfaction of his alleged indebtedness to the government arising out his alleged defalcation, as the law required, whereby the sureties on his bond are released.

4. That said Emory, as such collector, was not suspended by the government after he became a defaulter, if he ever became one. When the law required his alleged defalcation to be reported every month, and upon the report of first defalcation, required his suspension by the department, and the failure to make such suspension, released his sureties from all liability except such as arose during the month of his first alleged defalcation.

132 5. The alleged liability for which this suit is brought arose, if it arose at all, under a bond given by said Emory, as such collector, in October, 1869, and not under the bond on which this suit is brought, and which is signed by these defendants.

6. That the bond on which this suit is brought was not taken and approved by the officer appointed by law to take and approve the same, whereby the same is not binding on these defendants.

FEATHERSTON, HARRIS & WATSON,
Atto's for Def'ts, Stone, Compton, & McAlexander.

And for a further plea in this behalf, the said defendants, John M. Stone, William M. Compton, & William McAlexander, by attorney, come and defend the wrong and injury, when, &c., and say, "actio non," because they say that the above-named defendants on the first day of October, 1872, & before the institution of this suit, fully paid off and discharged the said sum of money in the said plaintiff's declaration mentioned and demanded, both the principal and interest, to the said plaintiff, and this they are ready to verify. Wherefore they pray judgment, &c.

FEATHERSTON, HARRIS & WATSON,
Attorneys for Defendants, Sone, Compton, and McAlexander.

Filed June 8th, 1876. G. R. Hill, clerk.

UNITED STATES OF AMERICA,
Northern District of Mississippi:

In the circuit court of said district. June term, A. D. 1879.

133 THE UNITED STATES, PL'FF,
vs.
B. B. EMORY ET AL., DEF'TS.

And now comes G. C. Chandler, U. S. attorney for said district, and moves the court to strike out the plea filed by the defendants the 8'

June, 1876, and the notice of the matter they propose to offer in evidence under said plea, and he assigns the following causes, to wit:

1st. Because said plea presents no issue, and sets up no defence to the action.

2nd. Because said notice sets up no defence or partial defense.

3rd. Because it is impertinent.

4. Because no lochees of the government constitute any defense or partial defense to this action.

5. Because the defense that they have paid the debt sued for can be made under the plea of not guilty, elsewhere pleaded.

G. C. CHANDLER,
U. S. Attorney.

Filed June 9, 1879. G. R. Hill, clerk.

And the said court, after hearing the arguments of counsel, and being fully advised as to the questions of law, did sustain said motion so far as the notice filed with said plea is concerned, and ordered said notice to be stricken out, but overruled the same as to said plea, and permitted the same to be retained & read; and the said defendants then and there, at the time, excepted to the opinion of the court in 134 sustaining said motion as to notice filed with said plea, and tendered this their bill of exceptions, which was signed, sealed, & ordered at the time to be made a part of the record in said case.

R. A. HILL, *Judge.* [SEAL.]

Filed June 11th, 1879. G. R. Hill, clerk.

Motion for new trial.

UNITED STATES OF AMERICA,
Northern District of Mississippi:

District court, June term, 1879.

UNITED STATES
vs.
B. B. EMORY ET AL. } No. 737.

The attorney for the United States moves the court to set aside the verdict of the jury rendered on a former day of this term, and to grant a new trial of this case, on the following grounds:

1st. Because the court erred in permitting the first bond, and the accounts of B. B. Emory under it, to be read to the jury as evidence.

2d. Because the court erred in refusing to allow the jury to correct their verdict.

3d. Because the verdict is contrary to the law and evidence in the case.

G. C. CHANDLER,
U. S. Attorney.

Filed June 30th, 1879. G. R. Hill, clerk.

And afterwards, to wit, on the same day, June 30th, 1879, the same being a day of said June term of said court, an order was made in said cause, which is in the words and figures following, to wit:

135 *Motion overruled.*

UNITED STATES
vs.
B. B. EMORY ET AL.

Came the parties, by their attorneys, and came on to be heard the motion entered in this cause by the plaintiff's attorney for a new trial; and the same being heard and understood by the court, it is ordered by the court that said motion be, and the same is hereby, overruled.

Bill of exceptions to overruling motion for new trial.

In U. S. district court, June term, 1879.

UNITED STATES
vs. No. 737.
B. B. EMORY ET AL.

Be it remembered that on the 30th day of June, A. D. 1879, it being a day of said term of the court, came on to be heard the motion of the U. S. attorney to set aside the verdict of the jury rendered in this case on a former day of this term, and to grant a new trial, which motion is as follows, to wit:

UNITED STATES OF AMERICA,
Northern District of Mississippi:

District court, June term, 1879.

UNITED STATES
vs. No. 737.
B. B. EMORY ET AL.

The attorney for the United States moves the court to set aside the verdict of the jury rendered on a former day of this term, and to grant a new trial of this case, on the following grounds:

1st. Because the court erred in permitting the first bond, and the accounts of B. B. Emory under it, to be read to the jury as evidence.

2d. Because the court erred in refusing to allow the jury to correct their verdict.

3d. Because the verdict is contrary to the law and the evidence in the case.

G. C. CHANDLER,
U. S. Attorney.

Filed June 30th, 1879. G. R. Hill, clerk.

136 And said motion being heard and understood by the court is by the court overruled, to which ruling of the court in overruling said motion and in refusing to grant a new trial in said case, the U. S. attorney excepted, and here excepts, and asks that his bill of exceptions be signed and made a part of the record, which is accordingly done, this the 30th day of June, A. D. 1879.

R. A. HILL, *Judge.* [SEAL.]

Filed June 30th, 1879. G. R. Hill, clerk.

And afterwards, to wit, on the 1st day of July, 1879, the same being a day of said June term of said court, a petition for writ of error was filed in said cause, which is in the words and figures following, to wit:

Petition for writ of error.

To the clerk of the district court of the United States for the northern district of Mississippi:

The petition of G. C. Chandler, U. S. attorney for the northern district of Mississippi, shows that the United States is aggrieved by a final judgment rendered at the June term, 1879, of the district court of the United States for the northern district of Miss. in the case wherein the United States is plaintiff and B. B. Emory et al. are defendants, and he therefore prays for a writ of error to the Supreme Court of the United States, returnable to a term of said court to be held on the 2d Monday of October, 1879, and as, &c.

G. C. CHANDLER,
U. S. Attorney.

Filed July 1, 1879. G. R. Hill, clerk.

137 And afterwards, to wit, on the same day, the following citation was issued, which is in the words and figures following, to wit:

Citation.

UNITED STATES OF AMERICA:

To J. M. Stone & McAlexander, defendants, in the case of the United States vs. B. B. Emory et al:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington D. C., on the 2d Monday of October next, pursuant to a writ of error filed in the clerk's office of the district court of the United States for the district of Northern Mississippi, wherein the United States is plaintiff and you are defendants in error, to show cause, if any there be, why the judgment in said writ of error mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness the honorable

R. A. HILL,
Judge of said Court.

Filed July 1st, 1879. G. R. Hill, clerk.
(Endorsed):
We acknowledge service of the within writ this the 1st day of July, 1879.

FEATHERSTON & HARRIS,
Atto's for Def'ts.

And afterwards, to wit, on the 8th day of July, 1879, a petition for cross-writ of error was file' in said cause, which is in the words and figures following, to wit:

Petition for cross-writ of error.

138 The United States America to the Hon. R. A. Hill, judge of the district court of the United States for the northern district of Mississippi:

Your petition's, J. M. Stone & W. C. McAlexander, citizens of the northern district aforesaid, would respectfully state unto your honor that a judgment was rendered in the district court of the United States for the northern district of Mississippi, sitting at Oxford, in said district, on the 10th day of June, 1879, for the sum of $10,003.52 against your petitioners, and in favor of the United States; that on the trial of said case, which terminated in said judgment, manifest injustice was done your petitioners, and the plaintiffs in said case, since the rendition of said judgment, has sued out a writ of error to remove said case, or the record thereof, to the Supreme Court of the United States for revision and correction. Your petitioners therefore pray that a cross-writ of error or cross-appeal may be granted to them; that they may avail themselves of the errors committed against them on the trial of said case.

As in duty bound, they will ever pray, &c.,

J. M. STONE,
W. C. McALEXANDER,
By FEATHERSTON & HARRIS,
Their Attorneys.

Filed July 8th, 1879. G. R. Hill, clerk.

And afterwards, to wit, on the same day, a bond was filed in said cause, which was in the words and figures following, to wit:

Bond.

139 Know all men by these presents that we, J. M. Stone, as principal, & W. L. Hemingway, as surety, are held and firmly bound unto the United States of America in the full and just sum of five hundred (500) dollars, to be paid to the said United States of America, to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents. Sealed with our seals, and dated this eighth day of July, in the year of our Lord one thousand eight hundred and seventy-nine.

Whereas lately, at a term of the district court of the United States for the northern district of Miss., held on the 10th of June, 1879, a day of the June term thereof, A. D. 1879, in a suit pending in said court, between the United States as plaintiff, and B. B. Emory, J. M. Stone, and Wm. C. McAlexander & others are defendants, a judgment was rendered against the said J. M. Stone & W. C. McAlexander in favor of said plaintiff for the sum of ten thousand & three & $\frac{52}{100}$ dollars, and the said J. M. Stone, having obtained a writ of error, and filed a copy thereof in the clerk's office of the said court, to reverse the judgment in the aforesaid suit, and a citation directed to the said United States, citing and admonishing to be and appear at a Supreme Court of the United States to be holden at Washington the second Monday of October next:

Now, the condition of the above obligation is such that if the said J. M. Stone shall prosecute his writ of error to effect, and answer all damages and cost if he fail to make his plea good, then the above obligation to be void; else to remain in full force and virtue.

140 J. M. STONE. [SEAL.]
WM. L. HEMINGWAY. [SEAL.]

Sealed and delivered in presence of—
A. M. NELSON.

Approved by

G. R. HILL, *Clerk.*

Filed July 8th, 1879. G. R. Hill, clerk.

And also on the same day a citation was issued in said cause, which is in the words and figures following to wit:

Citation.

To the United States of America, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the 2d Monday of October next, pursuant to a writ of error filed the clerk's office of the district court of the United States for the northern district of Mississippi, wherein J. M. Stone & W. C. McAlexander are plaintiffs, and you are defendant in error, to show cause, if any there be, why the judgment in said writ of error mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness the honorable R. A. Hill, judge of said court, this the 8th day of July, 1879.

R. A. HILL, *Judge.*

Filed July 8th, 1879. G. R. Hill, clerk.

(Endorsed:)
I hereby acknowledge service of this citation July 8th, 1879.
G. C. CHANDLER,
U. S. Attorney.

141 UNITED STATES OF AMERICA,
Northern District of Mississippi:

I, G. R. Hill, clerk of the district court of the United States for said district, do hereby certify that the foregoing 134 pages hereto attached, is a full, true, perfect, and correct copy of the record and proceedings (as required to be made) in said court as the same now appears of record and upon the file in my office, in the following cause, to wit: United States of America vs. B. B. Emory et al.

In testimony whereof I have hereunto set my name and affixed the seal of said court, at office, at Oxford, this the 7th day of August, A. D. 1879.

[SEAL.] G. R. HILL, *Clerk.*

(Indorsed:) No. . District court of the United States, northern district of Mississippi. vs. .

142 *Writ of error.*

UNITED STATES OF AMERICA:

The President of the United States, to the judge of the district court of the United States for the northern district of Mississippi, greeting:

Because in the records and proceedings, and also in the rendition of the judgment of a plea which is in said district court before you, between the United States and B. B. Emory et al., a manifest error hath happened to the great damage of the said United States, as by its complaint appears: We being willing that the error, if any hath been, shall be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that under your seal, distinctly and openly, you send the records and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you may have the same at Washington on the 13th day of October next, in the said Supreme Court to be then and there held, that, the records and proceedings aforesaid being inspected, the Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the honorable M. R. Waite, Chief Justice of the said Supreme Court, the 1st day of July, in the year of our Lord one thousand eight hundred and seventy-nine.

[SEAL.] G. R. HILL,
Clerk of the District Court of the United States
for the Northern District of Mississippi.

143 UNITED STATES OF AMERICA:

The President of the United States, to the judge of the district court of the United States for the northern district of Mississippi, greeting:

Because in the records and proceedings, and also in the rendition of the judgment of a plea which in said district court before you, between the United States and B. B. Emory, J. M. Stone, W. C. McAlexander, and others, a manifest error hath happened to the great damage of the said J. M. Stone & W. C. McAlexander, as by their complaint appears: We being willing that the error, if any hath been made, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that, under your seal, distinctly and openly, you send the records and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you may have the same at Washington on the 13th day of October next, in the said Supreme Court to be then and there held, that, the records and proceedings aforesaid being inspected, the Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States should be done.

Witness the honorable M. R. Waite, Chief Justice of the said Supreme Court, the 8th day of July, in the year of our Lord one thousand eight hundred and seventy-nine.

144 [SEAL.] G. R. HILL,
Clerk of the District Court of the United States
for the Northern District of Mississippi.

In accordance with the commands contained in the foregoing writs of error, I herewith transmit a duly certified transcript of the pleadings, records, and proceedings had in this court in said case, this August 8th, 1879.

Witness my hand & seal of said court.

[SEAL.] G. R. HILL, *Clerk.*

(Indorsement on cover:) No. 97. The United States, plaintiff in error, vs. J. M. Stone and W. C. McAlexander, and No. 98. J. M. Stone and W. C. McAlexander, plaintiffs in error, vs. The United States. N. Mississippi D. C. U. S. Filed 18th October, 1879.

16-525

OFFICE SUPREME COURT U. S.
FILED
NOV [illegible] 1882
JAMES H. McKENNEY, Clerk.

In the Supreme Court of the United States.

OCTOBER TERM, 1882.

THE UNITED STATES, PLAINTIFF IN ERROR,
vs.
J. M. STONE AND W. C. McALEXANDER.
} No. 97.

J. M. STONE AND W. C. McALEXANDER,
PLAINTIFFS IN ERROR,
vs.
THE UNITED STATES.
} No. 98.

BRIEF FOR THE UNITED STATES.

In the Supreme Court of the United States.

OCTOBER TERM, 1882.

THE UNITED STATES, PLAINTIFF IN ERROR,
vs.
J. M. STONE AND W. C. MCALEXANDER.
No. 97.

J. M. STONE AND W. C. MCALEXANDER,
plaintiffs in error,
vs.
THE UNITED STATES.
No. 98.

BRIEF FOR THE UNITED STATES.

These are cross-writs of error to reverse the judgment in an action by the United States on the bond of Benjamin B. Emory, a collector of internal revenue for the third district of Mississippi.

The bond is for the penal sum of $50,000, and conditioned, in the usual form, for the faithful discharge of the collector's duties, &c. (R., p. 3).

The action was brought against the collector and his sureties, William M. Compton, William McAlexander, Sanford W. Whiting, and John M. Stone, the surety Albert B. Slonaker not being sued, but became effective only against Stone and McAlexander.

The breach assessed in the declaration was that the collector had failed and refused to pay over or account for a balance of $57,497.84 which had been received by him as collector.

The defendants pleaded *nil debet*, with notice of special matter to be offered in evidence under the plea, which will be referred to particularly further on (R., pp. 15, 16).

They also pleaded payment (R., p. 16) and a plea of special *non est factum* (R., pp. 16, 17), and they traversed the averment in the declaration that the collector had withheld or refused to pay the said balance of $57,497.84, or any other or different sum (R., p. 18).

The plaintiff moved to strike out the plea of *nil debet* with notice of special matter, and the motion was sustained (R., p. 21), although it is stated in one of the bills of exception tendered by the defendants that the motion was sustained only as to the notice filed with the plea, but *overruled as to the plea* (R., p. 80). The defendants excepted to this action of the court (R., pp. 78–80).

The plaintiff demurred to the plea of special *non est factum*, and the demurrer was sustained (R., p. 20).

Without formal joinder of issue the parties went to trial on issues under the plea of payment, and the defendants' traverse of the breach laid in the declaration, and a verdict was rendered for the plaintiff for $10,003.52, and there was judgment thereon (R., p. 21).

The demurrer to the plea of special *non est factum* was properly sustained, the special matter forming the inducement of the plea consisting entirely, as it did, of averments of omissions of matters as to which the statute was entirely directory (R., pp. 16, 17).

Divers bills of exception, in addition to the one already mentioned, were tendered by the plaintiff and the defendants during the trial, which we will consider in their order.

PLAINTIFF'S EXCEPTIONS.

The plaintiff having closed its case, the defendants offered in evidence a bond given by the said Emory as collector of internal revenue for the said district for a period which expired on the 28th March, 1870, the day next before the date of the bond now in suit, the same being his term of office under his appointment during the recess of the Senate, the bond now in suit being for his term of office under the permanent appointment, with the advice and consent of the Senate, which began on the 29th March, 1870, to the admission of which evidence the plaintiff objected, but the objection was overruled and the evidence admitted. The defendants then offered in evidence certain transcripts from the records of the Treasury Department, showing the accounts of said Emory as collector while the said first bond was in force, to the admission of which the plaintiff objected, but the objection was overruled and the evidence admitted, to which said rulings the plaintiff excepted (R., pp. 70–76).

It is not easy to see on what ground the first bond and the accounts under it were admitted, seeing that the balance of $4,027.52 shown by these accounts to have been due by the collector at the close of his appointment *ad interim* on the 28th of March, 1870 (R., p. 76), was regularly carried forward into the new account opened on the 29th of March, 1870, when his regular appointment took effect. It is indeed difficult to understand how this evidence, which it was not proposed to follow up with other evidence, had a tendency to support either of the issues joined on the part of the defendants.

Each bond being for an entirely distinct term of service, and the sureties in each being liable only for the shortcomings of their principal during the term for which the bond was given (1 How., 250, United States *v.* Eckford), the effect of these transcripts, if they had any effect, was probably to mislead the jury into finding a much smaller balance due than is shown by the accounts in the Treasury by confounding the collector's operations under the two bonds.

The remaining exception tendered by the plaintiff was to the ruling of the court in refusing to allow the jury, on the day after their discharge from the consideration of the case, to correct their verdict in the article of a mistake in computing the amount of interest due by the defendants (R., p. 77).

After the jury were discharged from the consideration of the case—in other words, on the day after that on which the verdict was rendered the jury came into court and asked leave to correct their verdict, which the court refused to grant, and thereupon the counsel for the United States excepted (R., p. 77). There was manifestly no error in this ruling of the court.

The plaintiff's exception to the ruling denying its motion for a new trial need not, of course, be further noticed (R., p. 81).

DEFENDANTS' EXCEPTIONS.

The first exception is to the refusal of the court to exclude from the jury the transcripts from the books and proceedings of the department:

(1.) Because the certificates are not such as the law requires.

The question intended to be raised is too indefinitely presented to be considered by this court. But the transcripts do appear to be certified in accordance with law.

(2.) Because the transcripts are incomplete, and do not set out the entry on the books of the department, and are not transcripts from the books, but summaries of what the officers suppose the books contain.

This court will not consider any point presented so indeterminately. But if specific, there would be nothing in the point. (19 Wall., 198, United States *v.* Gaussen.)

(3.) Because the reports and receipts of Emory, as collector for assessments, and *other papers* connected with the settlement of his accounts by the department are not set out in said transcripts.

It is not pretended that the said papers, in so far as they relate to debits and credits, are not presented in the accounts contained in the transcripts. Besides, the defendants had a right to call for any papers necessary to their defense.

(4.) Because Emory's monthly and quarterly reports are not set out in said transcripts.

(5.) Because Emory's receipts for assessments are not set out in said transcripts.

These two grounds are sufficiently covered by what is said in reply to the third ground.

(6.) Because facts are set out in said transcript which did not come before the department, which were not in the course of its business, and of which its transcript is no evidence.

This court has said repeatedly that it will not notice a point taken with such generality.

(7.) Because said transcripts are partial, imperfect, and do not present the whole record statement in regard to said Emory's accounts as late collector as aforesaid.

This ground of exception is fatally wanting in definiteness.

The next exception given in the record is to the charge of the court that the assessment rolls received by the collector were *prima facie* evidence that he had received the money on them, and to the omission of the court to charge that "facts" not properly appearing on the books of the Treasury were not evidence because in the transcripts (R., pp. 77, 78).

The charge as to the assessment rolls was plainly right. As to the omission to charge touching the transcripts, there is nothing to show that the matter was brought to the attention of the court before the bill of exception was tendered; the proposition, as stated, involved a question of law, and is too vague and indefinite to receive the attention of this court.

The next exception is to the ruling of the court in striking out the notice of special matter filed with the plea of *nil debet* (R., pp. 78–80).

There was no error here, because although *nil debet* was a good plea under the State code, the special matter accompanying it, in so far as it related to the omission to report the collector's defalcations to the department at Washington, or the omission to issue a writ of seizure against the property of the collector, or the omission to suspend the collector, if a defaulter, constituted laches on the part of public officers which could not inure to the benefit of the sureties, the government being in no wise compromitted or affected by such laches. (1 Pet., 318, Dox *v.* Postmaster-General; 18 Wall., 662, Jones *v.* United States, and cases cited.) As to the matter that defendants are not indebted to government, that was clearly admissible under the plea without notice, if it was good. As to the matter that the alleged liability, if it arose at all, arose under another bond, it is difficult to see how any such evidence could have any possible relevancy. But as to all the matter not relating to the defaults or laches of the government officers, it was, if admissable at all, plainly available to the defendants under their traverse of the breach that the collector withheld the sum claimed, or any part thereof, and therefore there is, practically, no ground for reversal, however erroneous the ruling may have been.

It is submitted that there is no ground for reversal under the writ of error sued out by the defendants, and that the errors assigned by them should be adjudged insufficient, and that the judgment should be reversed under plaintiff's writ of error.

WM. A. MAURY,
Assistant Attorney-General.

OFFICE SUPREME COURT U.S.
FILED
NOV 21 1882
JAMES H. McKENNEY, Clerk.

16-525

IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1882.

THE UNITED STATES, *Plaintiff in Error,*
vs.
J. M. STONE and W. C. McALEXANDER.
No. 97.

J. M. STONE and W. C. McALEXANDER, *Plaintiffs in Error, vs.*
THE UNITED STATES.
No. 98.

Brief for J. M. Stone and W. C. McAlexander.

IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1882.

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J. M. STONE and W. C. MCALEXANDER, *Plaintiffs in Error, vs.*
THE UNITED STATES. } No. 98.

Brief for J. M. Stone and W. C. McAlexander.

These are cross-writs of error to reverse the judgment in an action by the United States on the bond of Benjamin B. Emory, collector of internal revenue for the third district of Mississippi.

The bond is in the usual form and the penal sum of $50,000. Suit was brought upon an alleged breach in collecting and failing to pay over $57,497.84. (R., p. 3.) Defendants pleaded *nil debit*, with notice of special matter to be offered in evidence. (R., pp. 15, 16.) They also pleaded payment and *not est factum*, (R., pp. 16, 17,) and traversed the averment that the collector had withheld or refused to pay the sum demanded or any other sum. (R., p. 18.) Defendants excepted to the Treasury transcript as evidence for plaintiff, which exceptions were overruled by the Court. (R., pp. 18, 19.)

The plaintiff moved to strike out the plea of *nil debit* and notice of special matter, which was sustained, as shown by the record (p. 21,) although defendants' bill of exceptions states that the motion was overruled as to the plea. (R., p. 80.) To this action of the Court the defendants excepted. (R., pp. 78, 80.)

Plaintiff demurred to defendants' plea of *non est factum*, and the demurrer was sustained.

In this state of pleadings the cause was tried and resulted in a verdict for plaintiff of $10,003.52, and there was judgment thereon. (R., p. 21.)

A motion to resubmit the case to the jury was made by plaintiff, and overruled by the Court. Other exceptions were taken which will be considered.

DEFENDANTS' EXCEPTIONS.

1. To the refusal of the Court to exclude from the jury the transcript from the Treasury Department file and intended to be offered as evidence:

(1.) Because the certificates are not such as the law requires.

(2.) Because the transcripts are incomplete, and do not set out the entry on the books of the department, and are not transcripts from the books, but summaries of what the officers suppose the books contain.

(3.) Because the reports and receipts of Emory as collector for assessments, and other papers connected with the settlement of his accounts by the department, are not set out in said transcript.

(4.) Because Emory's monthly and quarterly reports are not set out in transcripts.

(5.) Because Emory's receipts for assessments are not set out in said transcripts.

(6.) Because facts are set out in said transcripts which did not come before the department, which were not in the course of its business, and of which its transcript is no evidence.

(7.) Because the transcripts are partial, imperfect, and do not present the whole record statement in regard to said Emory's accounts as late collector as aforesaid.

While it is true that the act of 1797 makes a transcript from the book and proceeding of the Treasury Department, when properly certified, competent evidence, (Rev. Stat., § 886,) it is also true that the defendant is unquestionably entitled to the evidence of the decision of the Treasury officers upon his vouchers, without reference to the charges against him.

In the United States *vs.* Jones, 8 Pet., 375, the Court say: "In this suit he may avail himself of that decision without in any degree restricting his rights to object against an improper charge."

See also—

U. S. *vs.* Hilliard, 3 McL., 324.
U. S. *vs.* Patterson, Gilp., 44.

It is not sufficient to say that the above exceptions are indefinite, or that the defendants had a right to call for papers necessary for their defence. The point here presented is, that the plaintiff's evidence was incompetent, for the reasons specifically set out in the above exceptions. Though the debits and credits in any case may be set out, I am not aware that this alone has ever been held a sufficient transcript, and certainly nothing more can be claimed in this case.

2. The Court erred in striking out defendants' notice accompanying their plea. It is authorized by the statute of Mississippi, Code of 1871, § 599, which provides:

"If the defendant shall desire to prove, under the general issue in any action, any affirmative matter in evidence, which by law may be proved under such plea, he shall give notice thereof in writing, annexed to or filed with the plea; otherwise, such matter shall not be allowed to be proved at the trial. And the defendant may in all cases plead the general issue, and give written notice therewith of any special matter which he intends to give in evidence in bar of the action, and which he would be otherwise obliged to plead specially. * * * * "

Under the above statute defendants filed their notice. (R., pp. 15–16.) But which was stricken out on plaintiffs' motion. (R., p. 80.) If the notice contained a single fact which was competent and material, the notice should not have been stricken out. The fifth is as follows: "The alleged liability for which this suit is brought arose, if it arose at all, under a bond given by said Emory, as such collector, in October, 1869, and not under the bond on which this suit is brought, and which is signed by these defendants." This would be good defence. (R., p. 79.)

Nor was it error to admit the transcript and bond offered in evidence by defendants. (R., pp. 70 to 76.) This purported to show the accounts of Emory, collector, prior to the giving of the bond sued upon.

The sureties could only be held liable on the last bond, (executed March 28, 1870,) and for taxes collected after that date.

Myers *vs.* United States, 1 McLean, 495, was a case similar to this. Wilson, the receiver, had given a new bond, and the question was, whether the last bond was a security for a prior defalcation; and it was held that the securities were only liable for defalcations after the date of the bond.

In Irving *vs.* United States, 1 Howard, 250, Swartwout, collector of customs, was twice appointed, giving bonds with different sureties, as in this case, and the Court say: "The government must show the amount of the defalcation of the collector during the term for which the defendants were sureties, to charge them; and this is not done on the general face of the transcript. It is necessary, therefore, to have a re-statement of the account for this purpose."

The case of Lewenthall *vs.* The State, 51 Miss., 649, was similar to this. Moore, the tax collector of Lincoln county, had given a second bond. The Court say: "The certificate of Gartman, county treasurer, is competent evidence in this case, (see Code,) for the purpose of showing what it purports to set out—the amount of taxes of the year 1873 collected by Moore and not paid over; but it was incumbent on the plaintiff to have proceeded further, and to have pointed out by other testimony what portion of these collections were made prior to the 2d of December, 1873, and what part after that date. The defendants are only liable for the misconduct of the tax collector after they undertook for his good conduct. The proof left it uncertain whether the liability was upon the parties to the first or second bond. The testimony fails to show that Moore collected the money after the 2d of December, 1873, and comes short of establishing a liability on the plaintiffs in error. On this ground, there was error in the finding and judgment by the Court."

It was insisted in that case, for the State, that "if the defendants were entitled to any credits it was competent for them to prove the facts entitling them to it. And so it is here insisted by plaintiff that defendants had a right to call for any papers necessary to their defence. But it is incumbent upon the plaintiff to make out his case by *competent* evidence, before the defence can be called upon to show anything.

Referring to Treasury transcript (R. p. 26,) we find the first adjustment of Emory's accounts, covering all his official term prior to the date of giving the bond sued upon. He is there charged with five items, aggregating $50,063.20. This account is balanced by credits, three items of which purport to be transfers to himself, as his own successor, his then indebtedness to the Government, $30,534.42. The next adjustment charges him with the same three items, three months later, and shows him in arrears $60,613.85, (R., p. 29,) and upon this showing it is insisted that the whole of his defalcation occurred after the date of the last bond.

While this peculiar mode of adjustment protects the sureties on the first bond, it seems to work a great injustice to those sureties on the second—shifting the amount in arrears and its liability from the one to the other.

I cannot think the law ever contemplated such an official transaction.

For this reason the Treasury transcript was not competent evidence of what it purported to be, and should have been excluded from the jury.

3. It was error to give the following instructions:

"That while it was true that the plaintiff could only recover in this case for money collected by Emory and not accounted for to the Government, yet if they believe from the evidence that Emory had received the assessment roll of the taxes imposed, that was *prima facia* evidence that he had received the money on them, in the absence of any other or further proof on that subject," and in "omitting to charge the jury, that facts not properly appearing on the books of the Treasury Department could not be embraced in the transcript; facts of which the department had no knowledge, and if so embraced they did not constitute proof in this case." (R., pp. 77, 78.)

It will be seen that the point was brought to the attention of the Court, as the record shows that "the defendant *then and there excepted* to the omission." It should have been given in charge to the jury.

The sureties are liable only for money received during the term for which the collector was appointed when they signed his bond, but not for the misapplication of money received and misapplied prior or subsequent to that term.

U. S. *vs.* Eckford, 1 How., 250.

It is not insisted by plaintiff that there was any error in refusing to allow the jury to correct their verdict on the day after their discharge from the consideration of the case.

It is submitted that plaintiff has shown no sufficient ground under the writ of error sued out by him, and that the errors by plaintiff assigned should be held insufficient, and that the judgment should be reversed upon the sufficiency of errors assigned by defendants.

GEO. E. HARRIS,
Attorney for Defendants,
J. M. Stone and W. C. McAlexander.